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INVESTMENT TRUSTS AND INVESTMENT COMPANIES

LETTER

FROM THE

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CHAIRMAN OF THE
SECURITIES AND EXCHANGE COMMISSION

TRANSMITTING

PURSUANT TO LAW, A REPORT ON FIXED AND
SEMIFIXED INVESTMENT TRUSTS



JANUARY 16, 1940.—Referred to the Committee on Interstate and
Foreign Commerce and ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1940

5-7433

Stat

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9335.6A431

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Mar. 28, 1950

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LETTER OF TRANSMITTAL

SECURITIES AND EXCHANGE COMMISSION,
Washington, D. C., January 15, 1940.

SIR: I have the honor to transmit herewith a report on fixed and semifixed investment trusts, which supplements the Commission's over-all report on its study of investment trusts and investment companies, made pursuant to Section 30 of the Public Utility Holding Company Act of 1935. This report is one of a series of supplemental reports to be transmitted to the Congress by the Commission on special phases of its study of investment trusts and investment companies.

Part One, Part Two, and Chapters I to V of Part Three of the over-all report have heretofore been transmitted by the Commission to the Congress. Part One which was transmitted by the Commission to the 75th Congress on June 10, 1938 consists of a discussion of the nature, classification, and origins of investment trusts and investment companies and has been printed as House Document No. 707, 75th Congress. Part Two, the transmission of which to the 76th Congress was completed on March 10, 1939, consists of a statistical survey of investment trusts and investment companies, and has been ordered printed as House Document No. 70, 76th Congress. Part Three, of which the most recent section was transmitted to the 76th Congress on December 29, 1939, deals with the abuses and deficiencies in the organization and operation of investment trusts and investment companies and has been ordered printed as House Document No. 279, 76th Congress. The Commission has also transmitted to the Congress four supplemental reports, namely: Investment Trusts in Great Britain, transmitted on June 26, 1939, and ordered printed as House Document No. 380, 76th Congress; Investment Counsel, Investment Management, Investment Supervisory, and Investment Advisory Services transmitted on August 17, 1939, and ordered printed as House Document No. 477, 76th Congress; Commingled or Common Trust Funds Administered by Banks and Trust Companies, transmitted on August 30, 1939, and ordered printed as House Document No. 476, 76th Congress; and Companies Sponsoring Installment Investment Plans transmitted on September 22, 1939, and ordered printed as House Document No. 482, 76th Congress.

The study and report were under the general supervision of Commissioner Robert E. Healy, with Paul P. Gourrich, former technical advisor to the Commission, as director of the study, the late William R. Spratt, Jr., as chief of the study, David Schenker as counsel, and L. M. C. Smith as associate counsel. Paul P. Gourrich, former director of the study, whose resignation from the Commission was submitted on March 31, 1939, did not participate in the preparation or consideration of this report.

The preparation of the Report on Fixed and Semifixed Investment Trusts was under the immediate supervision of Harry S. Carver of the legal section in collaboration with Rexford C. Parmelee of the statistical section and other members of the staff.

JEROME N. FRANK, *Chairman.*

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Washington, D. C.

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Chapter I

NATURE AND SOURCE OF MATERIAL

I. AUTHORITY FOR STUDY

This report on fixed and semifixed investment trusts is part of a general study of investment trusts and investment companies which the Securities and Exchange Commission was authorized and directed to make by Section 30 of the Public Utility Holding Company Act of 1935.

II. SOURCE OF MATERIAL

The material which was used as the basis of the report was secured from the following sources:

A. Questionnaires and Summary Statements for Fixed and Semifixed Investment Trusts

A questionnaire for fixed and semifixed investment trusts was prepared by the Commission for the depositors and sponsors of fixed and semifixed investment trusts which had, at any time up to the end of 1935, assets and deposited property amounting to \$500,000 or more. For those fixed and semifixed trusts for which total assets and deposited property up to the end of 1935 were less than \$500,000, a form of summary statement was prepared by the Commission.

The questionnaire required information from each trust for the period from January 1, 1927 to December 31, 1935, relating to the following matters: its history and development, its structure, the issuance and distribution of its certificates, the trust agreement creating the trust, the nature and scope of its activities, its investment policies, the nature and contents of its portfolio, the volume of its transactions in portfolio securities, its relations with depositor and trustee, and the method of computing the offering price and redemption price of the trust shares. In addition, annual statements of trust assets and liabilities, distribution accounts and supporting schedules were requested covering the period from 1927 to the end of 1935.

The information required by the summary statements was restricted substantially to basic documents and to accounts for the latest fiscal year of the trust.¹

¹ In the preparation of the questionnaire and the form for the summary statement for fixed and semifixed investment trusts, the Commission conferred with a committee composed of: John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, sponsor of 5 fixed trusts; Benjamin F. Castle, vice president and director of Maryland Sponsors, Inc., formerly Administrative and Research Corporation (Maryland), sponsor of 10 fixed trusts; John M. Hincks, director and vice president of Calvin Bullock, a joint stock association, successor to Calvin Bullock and Company and Calvin Bullock, a sole proprietorship, sponsor of 4 fixed trusts; and Herbert I. Shaw, vice president and director of American Trustee Share Corporation, sponsor of 5 fixed trusts. The companies were the 4 largest distributors of fixed trust shares and had distributed the major part of the total number of fixed trust shares sold to the public.

The positions indicated above were those occupied by the members of the Committee at the time the questionnaire and form for summary statement were prepared.

The questionnaires and summary statements were sent to depositors, sponsors and, in some cases, trustees, of a total of 225 trusts. The Commission had received replies to the questionnaire for 56 trusts and summary statements for 124 trusts, or a total of replies for 180 trusts.²

B. Preliminary Conferences

Based on the material received, the Commission prepared tentative factual summarizations on 34 trusts which were made available to their sponsors at preliminary conferences with the staff of the Investment Trust Study for examination and correction.

C. Public Examinations

Following the preliminary conferences, public examinations were held before a duly appointed officer of the Commission, William W. Swift, at which officers, directors and representatives of depositors, sponsors and, in some cases, trustees of fixed trusts were examined under oath. The trusts and witnesses were permitted to be represented by counsel, and had the right to cross-examine and to submit any testimony or evidence which they deemed relevant. The public examinations were conducted on behalf of the Commission by David Schenker, Counsel to the Investment Trust Study, L. M. C. Smith, Associate Counsel, and Harry S. Carver, Assistant Counsel.

Public examinations were held on 44 fixed and semifixed investment trusts, their sponsors and affiliates, at which approximately 1,500 pages of testimony were taken and approximately 115 exhibits were introduced into evidence.³

² A list of fixed and semifixed trusts will be found in Appendix A.

Of the remaining 45 trusts for which no replies to questionnaires or summary statements were received by the Commission, some information pertaining to 2 was secured through correspondence and the facilities of the regional offices of the Commission; reports as to 5 trusts indicated that no shares had ever been issued; miscellaneous data were obtained for 32 trusts through correspondence but were insufficient to use as the basis for any study. For the remaining 6 trusts, no records were available from any source respecting them whatsoever, and of these neither the depositors nor sponsors of 2 trusts could be located through the use of the United States mails or the facilities of the regional offices of the Commission.

³ The following list contains the names of fixed investment trusts, grouped under their respective sponsors for which public examinations were held, together with the dates of the public examinations:

Sponsor: Calvin Bullock (4 fixed trusts), October 14, 15, 16, 1936:

Nation-Wide Securities Company, Trust Certificates, Series A.

Nation-Wide Securities Company, Trust Certificates, Series B.

United States Electric Light & Power Shares, Inc., Trust Certificates, Series A.

United States Electric Light & Power Shares, Inc., Trust Certificates, Series B.

Sponsor: Massachusetts Distributors, Inc. (4 fixed trusts), December 14, 1936:

Diversified Trustee Shares, Series A.

Diversified Trustee Shares, Series B.

Diversified Trustee Shares, Series C.

Diversified Trustee Shares, Series D.

Sponsor: Distributors Group, Incorporated (5 fixed trusts), January 22, 1937:

North American Trust Shares, 1953.

North American Trust Shares, 1955.

North American Trust Shares, 1956.

North American Trust Shares, 1958.

Cumulative Trust Shares.

D. Other Sources of Data

In addition to the sources heretofore described, information and data were obtained from the published financial manuals,⁴ from registration statements filed by depositors of fixed and semifixed investment trusts with the Commission under the Securities Act of 1933, and by correspondence with depositors, sponsors, and trustees, particularly in connection with the so-called "orphan trusts," trusts whose depositors or sponsors were no longer active.

Sponsor: Maryland Sponsors, Incorporated (Ross Beason & Co., Inc. Group) (10 fixed trust), January 27, 28, 29, 1937 :

- Corporate Trust Shares (Original Series).
- Corporate Trust Shares, Accumulative Series.
- Corporate Trust Shares, Accumulative Series (Modified).
- Corporate Trust Shares, Series AA.
- Corporate Trust Shares, Series AA (Modified).
- Fixed Trust Shares.
- Fixed Trust Shares, Series B.
- Basic Industry Shares.
- Five-Year Fixed Trust Shares.
- Fixed Trust Oil Shares.

Sponsor: Transcontinent Shares Corporation (formerly Bank & Insurance Shares, Inc.) (5 trusts), March 19, 20, 1937 :

- Deposited Bank Shares, Series B-1.
- Deposited Bank Shares, Series N. Y.
- Deposited Bank Shares, N. Y. Series A.
- Deposited Insurance Shares, Series A.
- Deposited Insurance Shares, Series B.

Sponsor: Lord, Abbett & Company, Inc. (6 fixed trusts), July 12, 1937. At public examination of Affiliated Fund, Inc., a management type investment company, held July 12, 1937, certain material was developed relating to the following trusts :

- Super-Corporations of America Trust Shares, Series A.
- Super-Corporations of America Trust Shares, Series B.
- Super-Corporations of America Trust Shares, Series C.
- Super-Corporations of America Trust Shares, Series D.
- Super-Corporations of America Trust Shares, Series AA.
- Super-Corporations of America Trust Shares, Series BB.

Sponsor: Donald P. Kenyon and associates (10 fixed trusts), August 13, 1937 :

- Trustee Standard Investment Shares, Series C.
- Trustee Standard Investment Shares, Series D.
- Trustee Standard Oilshares, Series A.
- Trustee Standard Oilshares, Series B.
- American Composite Trust Shares.
- Collateral Trustee Shares, Series A.
- Trusteed New York Bank Shares.
- Universal Trust Shares.
- A B C Trust Shares, Series D.
- A B C Trust Shares, Series E.

⁴Moody's Investors Service; Poor's Publishing Co.; Standard Statistics Co.; The Fitch Publishing Co., Inc.; and Keane's Financial Publications, Inc.

Chapter II

ORIGIN AND NATURE OF FIXED INVESTMENT TRUSTS

I. ESSENTIAL CHARACTERISTICS OF FIXED INVESTMENT TRUSTS

A fixed investment trust is a vehicle in which an investor acquires an undivided participating or beneficial interest in a relatively fixed list of securities (the underlying or deposited property) together with certain accumulations thereon, which are deposited from time to time by a corporation (the depositor) with a bank or trust company (the trustee), for the benefit of the holders of the certificates for trust shares. The certificates for trust shares, which the investors purchase, are, in effect, receipts or acknowledgements of the deposit by the trustee, and are issued in small denominations by the trustee to the depositor who, in turn, sells them to the public through dealers.

Most fixed trusts were of the "unit" type.¹ In this type of trust the deposited property was deposited in units; each unit of deposited property was identical with every other and an invariable and identical number of trust shares was issued against each unit.

The offering price of the fixed trust share (price at which the shares were sold to the public) was in most cases determined by taking the market value of each of the underlying securities on the basis of quotations on the New York Stock Exchange or other market at odd-lot prices, to which was added brokerage commissions, and the value of the proportionate amount of accumulated cash and other property

¹ Fixed trusts which are created by the deposit of units or packages of securities by the depositor with a trustee, are sometimes designated as "unit trusts" in contradistinction to a "fund" type of trust. In the latter type of trust, the proceeds of sales of certificates for trust shares are added to a general fund or pool and are invested from time to time in underlying securities in accordance with the conditions under which the trustees may be authorized to act. In a study of fixed trusts made in England in 1936 by a committee appointed by the British Board of Trade, the term "unit trust" was preferred:

"Instead of the term 'Fixed Trust,' which is not appropriate to Flexible Trusts and may be thought to presume a fixed rate of dividend, we have adopted the term 'Unit Trust' as being more comprehensive and free from ambiguity. If it is decided to introduce legislation, it will be the duty of the Parliamentary draftsman to devise an appropriate definition." (Report of the Departmental Committee appointed by the Board of Trade, 1936, London (1936), p. 6.)

By reason of the fact, also, that the agreement between the depositor, the trustee and the certificate holders is embodied in the form of a trust agreement, fixed trusts are sometimes classed with other types of investment trusts based on similar trust agreements and are called "contractual type trusts." (Ketchum, M. D., *The Fixed Investment Trust*, Chicago (1937), pp. 15, 26. See also Ketchum, M. D., *The Contractual Type Investment Trust*, Chicago (June 1937), p. 35 [Unpublished]), and *Investment Trusts, a Survey of the Activities and Forms of Investment Trusts with Recommendations for Statutory Regulations* by the New York State Department of Law (1927), p. 34.

held by the trustee. This aggregate was then divided by the total number of trust shares to be issued against each unit of deposited property, to which quotient was then added the "load" or "loading charge" which included charges for issue and deposit and for distribution and profit.² In addition to the loading charge, depositors of some fixed trusts charged the corpus of the trust with a further annual "management" fee, based either on a percentage of the total assets of the fund or its net earnings.

² In the detailed price make-up sheet (showing the computation of offering price of a certificate for trust shares) for North American Trust Shares, 1953, dated December 31, 1929, the price of the trust shares was computed by taking the price of 4 shares of each of the 28 underlying securities which for December 31, 1929, totaled \$15,741.50, adding \$1,200 for a paid-in reserve fund and \$50.30 for odd-lot brokerage and commissions, \$81.80 for accumulations arising from the underlying corporations, and dividing the total, \$17,073.60, by 2,000, the number of trust shares into which each unit was to be divided under the terms of the trust agreement. To the result, \$8.54, was added a charge for issue and deposit of 18¢ and a charge for distribution and profit of 5% or 46¢. The total, \$9.18, was adjusted upward to the nearest one-eighth of a dollar so that the price per share was \$9.25.

TABLE 1.—North American Trust Shares, 1953—price make-up sheet for Dec. 31, 1929 *

Dec. 31, 1929. Price, \$9 $\frac{1}{2}$	Opening price.
\$9 $\frac{5}{8}$	11:32 a. m.
\$9 $\frac{3}{4}$	3:23 p. m.
\$9 $\frac{1}{4}$	Closing price.

Company	Number of shares	Market	Total at market	Brokerage and commissions	Accumulated dividends	Total
1. Amer. Rad.....	4	31 $\frac{1}{2}$	126.00	\$1.10	-----	\$127.10
2. Amer. T. & T.....	4	223	892.00	2.20	9.00	903.20
3. Amer. Tob. B.....	4	204 $\frac{3}{4}$	819.00	2.20	-----	821.20
4. Atchison.....	4	223	892.00	2.20	-----	894.20
5. Cana. Pac.....	4	191 $\frac{1}{2}$	766.00	2.00	-----	768.00
6. Consol. Gas.....	4	100 $\frac{1}{8}$	400.50	2.00	-----	402.50
7. Du Pont.....	4	117 $\frac{1}{4}$	469.00	2.00	2.80	473.80
8. Eastman.....	4	178	712.00	2.00	8.00	722.00
9. G. E.....	4	243 $\frac{3}{4}$	975.00	2.20	6.00	983.20
10. Ills. Cent.....	4	130	520.00	2.00	-----	522.00
11. Ing.-Rand.....	4	160	640.00	2.00	-----	642.00
12. L. & N.....	4	132	528.00	2.00	-----	530.00
13. Natl. Bisc.....	4	180	720.00	2.00	6.00	728.00
14. N. Y. Cent.....	4	170 $\frac{3}{4}$	683.00	2.00	8.00	693.00
15. Otis Elev.....	4	275	1,100.00	2.40	6.00	1,108.40
16. Penn. R. R.....	4	74 $\frac{3}{8}$	297.50	1.20	-----	298.70
17. Royal Dutch.....	4	53	212.00	1.20	-----	213.20
18. So. Pac.....	4	124	496.00	1.50	6.00	503.50
19. Stand. Calif.....	4	61 $\frac{1}{2}$	246.00	1.20	-----	247.20
20. Stand. N. J.....	4	66 $\frac{1}{4}$	265.00	1.20	-----	266.20
21. Stand. N. Y.....	4	33 $\frac{3}{8}$	133.50	1.10	-----	134.60
22. Texas Co.....	4	56 $\frac{1}{2}$	226.00	1.20	3.00	230.20
23. U. Pacific.....	4	216	864.00	2.20	10.00	876.20
24. U. Fruit.....	4	105	420.00	2.00	4.00	426.00
25. U. S. Steel.....	4	171 $\frac{1}{4}$	685.00	2.00	-----	687.00
26. West. Union.....	4	198	792.00	2.00	8.00	802.00
27. Westinghouse El.....	4	144 $\frac{1}{2}$	578.00	2.00	5.00	585.00
28. Woolworth.....	4	71	284.00	1.20	-----	285.20
Reserve fund in cash held by trustee.....						1,200.00
		3,935 $\frac{5}{8}$	15,741.50	50.30	81.80	17,073.60

Total..... \$17,073.60

One North American Trust Share (1/2000)..... 8.54
Charge for issue and deposit..... .18

5% cost of distribution and profit on sales price..... 8.72
..... .46

Selling price per share \$9.25..... 9.18

* Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit O-2.

II. COMPARISON OF FIXED TRUSTS WITH MANAGEMENT INVESTMENT TRUSTS AND COMPANIES

The fixed investment trust differs from the management investment trust or company in many important respects.³

A. Difference in Managerial Discretion

The most important distinction between fixed investment trusts and management investment companies is the difference in the extent of managerial discretion. Generally, in management investment companies, no restrictions or only limited restrictions are imposed with respect to the nature, type, and amount of investments which may be made. The management investment company has a general fund which its board of directors or managers may invest, or not invest, as they see fit, subject, of course, to limitations which may be set up in the laws of the state in which the corporation is organized, in the articles of incorporation or in the by-laws of the corporation. In the case of the investment company in the form of a Massachusetts trust, there is also a general fund which the trustees of the trust may invest, or not invest, as they see fit, subject to the laws of the state in which the trust is formed or the terms of a trust instrument. Even where its powers are narrowed, the management is usually afforded considerable investment discretion.

In the fixed trust, no general fund for investment by managers ordinarily exists. Instead, a series of units, the elements of which are always known, are deposited with a trustee. Available funds are, with a few exceptions, fully invested as each unit is created. Management is ordinarily reduced to a minimum, because the controlling document, the trust agreement, usually specifies not only the securities in which the funds may be invested but also the specific number of each security which may be purchased. In other words, the underlying securities (portfolio securities) of the fixed trust are fixed by the trust agreement both as to the security and the number of shares to be included in each unit or package deposited with the trustee. In the rigid type of fixed trust this arrangement may not be changed. It would constitute a violation of the duty of the trustee to accept any variation in the security or number of shares offered for deposit by the depositor in the creation of each unit. Even in the more flexible type of fixed investment trust, the trust agreement generally contained a primary list of securities (the only securities which could be deposited) and a secondary list of securities (securities which could be placed in the primary list only under certain conditions). Because of these limitations with respect to the securities which could initially constitute the portfolio of the fixed trust, and the restrictions upon the elimination and substitution of such securities, management and investment discretion by the depositor or sponsor of the fixed trust were curtailed as far as possible.

Eliminations of underlying securities in the fixed trust were made dependent upon the happening of specified contingencies beyond the

³ For a brief description of all the various types of investment trusts and investment companies, see Report on Investment Trusts and Investment Companies, Part One, Ch. II, p. 21, et seq. (House Doc. No. 707, 75th Cong.).

control of management. In the most rigid type changes were permitted in the portfolio only in the event of the consolidation, merger, reorganization, or sale of substantially all the property of an underlying company. In such an event, the property received as a result of the change in the underlying company would either be retained or sold, and, if sold, the proceeds would be distributed to the certificate holders, depending upon the terms of the trust agreement. Among the factors which automatically compelled elimination of the securities in non-rigid trusts were: passage of a regular dividend on an underlying security for 100 days; passage of a regular dividend on an underlying security for 1 year; lowering of a rating of a security by some particular statistical service; unavailability of a stock upon attempted purchase through a broker; delisting of securities on the New York Stock Exchange or New York Curb Exchange; reduction of the supply of a stock so as to affect abnormally the price of such stock; speculation in a stock which made elimination advisable; unbalancing of the unit of the fixed trust by the receipt of stock dividends, split-ups or other property by the trustee; advance of shares of stock to a price seemingly beyond intrinsic worth; unsatisfactory change in an underlying company which might result in a decrease of earnings; decline in net earnings for any fiscal year to an amount lower than the average net earnings reported in the three fiscal years immediately preceding.⁴

In some instances, the rigidity has been further relaxed in that discretion to eliminate underlying securities was vested in the depositor or the trustee, or both, generally after advice from investment counsel. As a guide to the exercise of this discretion, objective factors similar to those above enumerated were frequently prescribed. In some trust agreements it was also provided that the desirability of retaining the given security as a long-term investment should be considered. In the most flexible type of fixed trust, provision was made in the trust agreements, in addition to the provisions for the elimination of underlying securities, for the substitution either of securities specifically enumerated in a secondary or reserve list, or of securities which complied with prescribed general qualifications.

B. Structure

Management investment companies are generally corporate in form with legal title to all assets vested in a corporation. The investor in that type of investment company is a stockholder and, as in other corporations, has only an undivided participating right in the earnings and profits of the corporation and a proportionate participating right in the property of the corporation upon its liquidation.⁵

In the fixed trust, on the other hand, the legal title to or the ownership of trust property is vested in a trustee, usually a bank or trust company, which derives its power from a trust agreement between

⁴ See Ch. VIII, Eliminations and Substitutions, for a discussion of the experience of investors as a result of various bases of elimination of underlying property.

⁵ Some management investment companies assume the form of a Massachusetts or common law trust, in which the ownership or legal title to the property of the trust is in the trustees, and the investor in this type is in the position of a beneficiary of a trust.

itself, the depositor, and the owners of the trust certificates.⁶ The investor, like any other beneficiary of a trust or cestui que trust, has a beneficial undivided interest in specific deposited securities or property.

C. Types of Securities Sold to the Public

Management investment companies, both of the corporate or Massachusetts type, may issue different classes of capital stock or securities. These securities may include bonds, debentures, preferred and common stocks. As a consequence, in the management investment trust or company with senior securities which have a fixed or prescribed limit upon their right to participate in the earnings and assets of the company, leverage may exist.⁷

In the fixed trust, however, only one class of security is issued—the certificate of beneficial interest which is, in form, a receipt issued by the trustee for the deposited property.

D. Voting

In the management investment company, as in the case of other corporations, voting rights are generally vested in the stockholders or a class of stockholders under the laws of the various states. In the case of fixed trusts, which in this respect resemble the Massachusetts trust, voting by the certificate holder is, generally, not permitted.⁸

E. Redemption of Shares

Since the management investment companies are usually corporate in form, the investor or security holder can only dispose of his investment or interest by a sale or transfer of his securities to another purchaser or investor or through the voluntary repurchase of the securities by the investment company itself. Similarly, where the management investment company is in the form of a Massachusetts or common law trust, the investor or shareholder can only dispose of his interest by a sale to another investor or a voluntary repurchase by the trust. However, in the management trust or company of the so-called open-end type (which may be either in the corporate form or in the form of a Massachusetts or common law trust), provision is made for the redemption by the company at the asset value of the shares on demand of the shareholder.

The right of redemption of a holder of the shares of a fixed trust is comparable to that for the open-end management investment trust or company. By reason of the fact that the funds are invested unit by

⁶ An anomalous form of trust, a fixed trust in corporate form, is found in Chain Store Shareowners, Inc., incorporated November 29, 1930. The trust was terminated in 1932. Each 100 shares of the corporation's stock initially represented one share each of 35 chain store companies and \$100 as capital and reserves. Directors had full discretion to sell any or all of the underlying stocks. For a description of this trust, see Moody's Manual of Investments, Banks, 1931, p. 1840.

⁷ For discussion of the principle of leverage, see Report on Investment Trusts and Investment Companies, Part One, Ch. II, p. 28 et seq. (House Doc. No. 707, 75th Cong.).

⁸ For a discussion of voting rights by certificate holders, see Ch. VI, The Trust Agreement, p. 100, *infra*.

unit in specified securities, the holder of the trust shares generally is permitted to secure his proportionate amount of the deposited or underlying property from the trustee at any time.

F. Continuous Offering of Shares

Generally, for the management investment company, except in the case of open-end companies whose shares are continuously sold to the public, the capital stock or securities of the company are offered in a way similar to the sale of the issues of any other type of corporation. The issues are usually underwritten by investment banking houses, and ordinarily the entire initial fund of the closed-end management investment company is raised at one time by one public offering. The fixed trusts, however, resemble the open-end management trust or company, in that the fixed trust shares are continuously distributed to the public. The units to be deposited are created from time to time as the trust shares are sold.

G. Compensation to Managers

Compensation to the promoters or distributors of the shares of fixed investment trusts was generally included in the initial loading charges on the trust shares. This loading charge amounted to from 7% to 10% of the value of the underlying securities and other property. This load was added to the base value to arrive at the offering price of the fixed trust share to the public and was to pay the cost of issue and deposit, the cost of distribution of the trust shares, compensation of the trustee for the life of the trust, and profit to the sponsors. Some few fixed trusts charged, in addition to the loading charge, an annual "management" charge. For the type of semifixed trusts which resembled open-end management companies and which were offered beginning in 1933, a "management" charge was generally made in addition to the loading charge. In the management investment company, a variety of bases of compensation for management are used, including a percentage of the total value of the assets of the company taken at certain periods, a percentage of earnings, a percentage of profits, or a specified salary.

H. Termination

Fixed trusts, unlike most corporate investment companies, have a specified termination period. The duration of a fixed trust is usually 20 or 25 years. Some fixed trusts, created for specific purposes—such as to take advantage of the improvement which it was thought would follow the market break of 1929—were established for short periods.⁹ Prior to the termination date, the investor could, in the case of most fixed trusts, surrender the trust certificates to the trustee and receive in kind the underlying stocks on which a unit was based or the cash equivalent thereof and thereby dispose of his interest in the trust.

⁹ Five-year Fixed Trust Shares dated March 1, 1931, and Two-year Trust Shares (Original Series) dated November 3, 1930, are examples.

I. Price Range of Shares

Fixed trusts were brought out at comparatively low prices. At the beginning of the movement, the offering prices were generally in the range of \$8 to \$10 per share and five shares the minimum amount which could be purchased. Subsequently, one or two dollar shares became common. The shares of many management investment companies, particularly the closed-end companies, were at first in the higher price range of common stock issues. The common stock of The Goldman Sachs Trading Corporation, incorporated December 4, 1928, and of The Lehman Corporation, organized in September 1929, were each offered at \$104 a share. The offering of United States & Foreign Securities Corporation, organized in October 1924 under the sponsorship of Dillon, Read & Company, was in the form of allotment certificates (one share of first preferred stock and one share of common stock) at \$100 per certificate. Many other management investment companies offered their shares in the same price range.

The management investment companies and the fixed trusts, as in the British experience,¹⁰ appealed to different classes of investors. The fixed trusts were sold as nonspeculative investments. For example, the circular for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, sponsored by Calvin Bullock,¹¹ stated that the trust shares "do not offer the opportunity for profit found in individual stocks, but rather appeal to those who buy only high grade bonds for conservative investment."

J. Sponsorship

The nature of the sponsorship of fixed trusts differed from that of the management investment companies in that many of the larger management investment companies were organized by investment banking houses or brokerage firms. Fixed trusts, with few exceptions, were brought out by individual promoters who provided the plan. The larger investment banking houses or brokerage firms sponsored fixed trusts only to save for themselves what business there was of this type.¹²

III. LATER CHANGES IN FIXED TRUSTS

By the middle of 1932 the more rigid type of fixed trust had fallen into disfavor, due primarily to the mechanical and inflexible elimination of leading securities from the portfolio at very low points in the market.¹³ The problem of the sponsors, therefore, was to devise some plan which would avoid mechanical eliminations and at the same time utilize the good-will which had been built up for the fixed type of trust. Accordingly, modified forms of fixed trusts were devised in which the framework of the fixed trust was retained but considerable

¹⁰ Lewcock, Francis, *The Fixed Trust Year Book 1936*, London (1936), pp. 4, 72.

¹¹ Reply to the Commission's questionnaire for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, Exhibit 19-A-13.

¹² See Ch. III, Organization and Growth of Fixed Investment Trusts, p. 33, *infra*.

¹³ For example, see North American Trust Shares, 1953, and Corporate Trust Shares, Original Series. See Chapter VIII, Eliminations and Substitutions, pp. 131, 135, *infra*.

discretionary powers were vested in the depositor to make eliminations and substitutions.¹⁴ Subsequently, in 1933, at about the time that many sponsors had abandoned the fixed trust entirely in favor of the open-end management type company, a new type of trust was brought out which retained many features of the earlier fixed trust but introduced an element of management. The characteristics, among others, of this new type of trust were: (1) a primary and secondary list of stocks with provisions for replenishment of the primary list from time to time from the secondary list on elimination of securities; (2) computation of the offering price of trust shares by adding to the total value of the underlying securities a loading charge and the value of the funds then available for distribution and dividing the total by the number of shares outstanding; and (3) redemption of trust shares as in the case of fixed trusts.¹⁵

This type of investment trust was the result of the contemporaneous development of fixed trusts and management investment companies, and the influence of one upon the other. The elements incorporated in some of the later management companies were a more or less fixed portfolio, and redemption of the trust shares although the latter feature had been incorporated as early as 1924 in several management type companies.¹⁶

IV. CLASSIFICATION OF FIXED AND SEMIFIXED TRUSTS

Fixed trusts may be differentiated on various bases.

A. Type of Portfolio

Classified with respect to investment policy, fixed trusts are of a general or specialized type. In the fixed trust of the general type, the portfolio consists of a diversified list of specified securities. Thus, in this type of trust the list will include the securities of specified industrial companies, utilities, railroads, and perhaps insurance companies and banks. In the specialized type of fixed trust, on the other hand, the list of portfolio securities is "specialized"—limited to the stocks of particular industries such as oil companies, banks, utilities, or railroads, or, as in some few cases, to the stocks of management investment companies or bonds of various types. Specialization in fixed trusts was in some cases carried even beyond a particular industry and was limited to stocks of certain specific companies within an industry. Thus, the portfolios of some fixed trusts were limited to the

¹⁴ Some of the later series of Corporate Trust Shares and North American Trust Shares, set up in 1931 and 1932, represented one type of modification providing intricate combinations of mechanical and discretionary factors for elimination.

¹⁵ Examples of this type of trust, or with slight modifications thereof, are: Trusteed Industry Shares, dated April 1, 1933; Trusteed American Bank Shares, Series B, dated April 1, 1933; Schuyler Trust Shares, dated January 1, 1934; and Collateral Equities Trust Shares, dated March 27, 1934.

¹⁶ This so-called open-end feature was found in Massachusetts Investors Trust, State Street Investment Corporation and Incorporated Investors. See Report on Investment Trusts and Investment Companies, Pt. One, Chapter III, at 101 et seq. (H. Doc. No. 707, 75th Cong.). Management companies representing the influence of the fixed trust are Group Securities, Inc., sponsored by Distributors Group, Incorporated; Quarterly Income Shares, Inc. and The Maryland Fund, Inc., sponsored by Maryland Sponsors, Inc.; Nation-Wide Securities Company (Maryland), sponsored by Calvin Bullock and Supervised Shares, Inc., sponsored by Massachusetts Distributors, Inc. All these sponsors were also among the leading sponsors of fixed trusts.

stocks of Standard Oil companies, of banks of Philadelphia, banks of Detroit, banks of New York City. The portfolio of Brandywine Shares consisted of the shares of Christiana Securities Company, a management investment company whose portfolio in turn consisted of the stocks of the companies controlled by or affiliated with E. I. du Pont de Nemours & Company.¹⁷

B. Treatment of Capital Increment

Another basis of differentiation among fixed trusts is the manner of treatment of dividends or other distributions received by the trustee on the underlying securities or property. In the cumulative type of trust, stock dividends on and split-ups of the underlying securities may, if directed by the trust agreement, be retained and added to the deposited property. Rights to subscribe to stock received by reason of ownership of the underlying securities may, in some cases, be exercised by the trustee and the securities received likewise added to the deposited property. In this type of trust, the number of shares set up in units created after the dividend or distribution is received by the trustee, are changed because all units of the trust—those already created and those to be created—are maintained in identical form. Thus, in those cumulative trusts which contained General Electric Company as an underlying company, four shares were made a part of the unit after January 1930 for every one share originally provided for in the trust agreements, because of the split-up of shares of General Electric Company in that ratio at that time.

In the distributive type of fixed trust, with which the cumulative type is contrasted, dividends or other distributions of underlying securities—stock dividends, rights and split-ups—were, if so provided by the trust agreement, sold and the proceeds distributed to the investors. Thus, in those distributive type trusts in which General Electric Company was one of the underlying companies, one share of General Electric Company stock was retained in the portfolio as the result of the split-up of shares, four for one, in January 1930 and three shares were sold and the proceeds distributed to the trust shareholders as income. Part of the periodic distributions of distributive type trusts—sometimes a substantial part—may, therefore, involve a distribution of capital.¹⁸

C. Relative Rigidity

A third basis of differentiation of types of fixed trusts relates to the treatment of eliminations of underlying securities and substitutions and addition of new securities. In one group were a few trusts of an extremely rigid type which permitted no eliminations or substitutions of underlying securities except substitutions of companies in case of the merger, consolidation or reorganization of or the sale of substantially all the property of an underlying company. In another group, which contains the largest number of fixed trusts, certain formulae for the elimination of securities were set out in the trust agreement creating the trust. Some of these formulae were adopted in an effort to eliminate, as far as possible, all elements of manage-

¹⁷ Derived from information supplied the Commission for Brandywine Shares. See Moody's Manual of Investments, Banks, 1937, p. 2263.

¹⁸ For a discussion of distribution of capital, see Ch. VII, Deposited Property, *infra*.

ment in the operation of the trusts.¹⁹ In a third group are the fixed trusts in which provision is made not only for the elimination of securities but also substitution of other securities. Finally, in a fourth group are the fixed trusts which closely approximate the restricted management type of investment company in that the depositor or investment counsel or both have discretion with respect to the sale of portfolio securities, the time of investment of new funds, and the substitution of securities within the limits defined in the trust agreement.

V. REASONS FOR DEVELOPMENT OF FIXED TRUSTS IN THE UNITED STATES

The fixed investment trust first appear in the United States in 1923.²⁰ While investment trusts of the management type had developed in Europe a half century earlier,²¹ the history of European trusts

¹⁹ For a discussion of the bases of elimination, see Chapter VIII, Eliminations and Substitutions, *infra*.

²⁰ See testimony of William J. Thorold in Public Examination, Federated Capital Corporation at 14428. See also Ch. III, Organization and Growth of Fixed Investment Trusts, *infra*, for a discussion of sponsorship and development of fixed trusts.

A number of devices which were similar and comparable to the fixed trust in structure have existed. One of these forms involved the deposit of stock of Ford Motor Company of Canada, Ltd. by Investors Share and Unit Corporation of New York with the American Trust Company, New York, as trustee. The trustee issued bankers' shares against the deposit, each representing a 1/100th part of a share of underlying stock. Holders of bankers' shares received all dividends declared on the underlying stock and could convert 100 bankers' shares into one share of the underlying stock. This device was stopped because of objection to the use of the name Ford in sales efforts and because of the large spread between the market price of the underlying stock and the sales price of the bankers' shares to the public (Steiner, W. H., *Investment Trusts* (New York), 1929, pp. 55, 227).

Another issue of "bankers' shares" against a deposit of stock was that offered when Cities Service Company in 1919 deposited 30,000 shares of its common stock with a trust company and the trustee issued 300,000 non-voting bankers' shares against the deposit. Ten bankers' shares were exchangeable for one common share (Steiner, *op. cit.*, p. 227).

Analogous also are mortgage bonds issued as participations in a mortgage on real estate and, in the Middle West particularly, land trust certificates, which are based on an arrangement whereby land is conveyed to a trustee who manages and leases it for the benefit of holders of certificates issued against the fee. For a discussion of land trust certificates, see *Baker v. Stern*, 194 Wis. 233, 216 N. W. 147 (1927).

In this connection may also be mentioned the Massachusetts trust which was first developed in Massachusetts for transactions involving real estate because corporations could only buy and sell land by a special act of the legislature in that state. See *Howe v. Morse*, 174 Mass. 491, 55 N. E. 213 (1899).

A plan not unlike the fixed trust was also used for facilitating the sales of foreign securities in the United States. Foreign securities were deposited with a bank and against the deposit American shares were issued, some of which were listed on American exchanges. Royal Dutch Company (New York shares) which is listed on the New York Stock Exchange represents an interest in a deposit of shares of Royal Dutch Company of Holland with The Chase National Bank of the City of New York (successor to Equitable Trust Company). Other examples are the creation of American shares against deposits of the Discount Company of Amsterdam, the Copenhagen Handelsbank, Courtold's, the Dresdner Bank in Berlin. See Steiner, *op. cit.*, pp. 55 and 227, Ketchum, M. D., *The Contractual Type Investment Trust*, pp. 672-4, and Robinson, L. R., *Investment Trusts, Organization and Management*, New York (Revised Edition (1929), p. 51).

Receipts for the deposit of securities by trustees or managers pending reorganizations, mergers or consolidations of corporations are also similar to fixed trust certificates in that one type of security is deposited with a trustee or depository and another type issued against the deposit. See Robinson, *op. cit.*, p. 52.

²¹ For a discussion of the early history of the management type investment trust, see Report on Investment Trusts and Investment Companies, Pt. One, Ch. III (House Doc. No. 707, 75th Cong.)

shows no vehicle comparable to the fixed trust prior to its introduction in England in 1931.²²

The rapid growth and development of fixed trusts in the United States may be attributed to several factors. In the years preceding 1924 many small investors, particularly in the Middle West, placed their surplus funds in those facilities for investment which they had used for many years, namely, savings banks, building and loan associations, and obligations secured by real estate. In these facilities they found considerable security but a comparatively low yield and no opportunity for capital appreciation. In the fall of 1924 began the rise in stock market prices which lasted with interruptions for five years. The attention and interest of the small investor was soon attracted to the market by the daily publicity which the market rise was receiving during the period.²³

To satisfy the demand of small investors for ownership of common stocks, promoters offered the fixed investment trust.²⁴ This type of trust was especially calculated to satisfy various requirements. In the first place, to overcome the suspicion and fear of manipulation, the portfolio of the fixed trust was fully disclosed and was generally unchangeable. The investor was assured, therefore, that both changes in his investment and manipulation were impossible. The fear of speculation was overcome by the representation that the investor was really buying a cross section of American industry; that every dollar placed in fixed trusts was spread over many corporations that were supplying necessities; that if these corporations failed, even United States Government bonds would be of little value. Use also was made of the publicity value of such names as General Electric Company, United States Steel Corporation, Pennsylvania Railroad Company, American Telephone and Telegraph Company, and similar corporations in the portfolio.²⁵

²² A number of trusts based upon representative European stocks were formed in France about 1850. (See Ketchum, *The Contractual Type Investment Trust*, op. cit., p. 671.)

In Holland the Administratie Kantoren, which is analogous to a trust company, issued bearer certificates against the deposit of underlying shares (Steiner, op. cit., pp. 229-30).

In 1889 the Stock Conversion and Investment Trust, Ltd., accumulated certain railroad stocks and against these holdings for which it acted as trustee, issued preferred and common stock. In 1924 some of those associated with this trust organized the London, Midland and Scottish Trust which proposed to issue preferred and common stock against deposits of underlying shares of railroad stock. The railroads were opposed to these plans. (See Steiner, op. cit., pp. 28, 228.) For a full discussion of the Stock Conversion and Investment Trust, Ltd., see Grayson, Theodore J., *Investment Trusts*, New York (1928), pp. 119f.

²³ Practically the same factors led to the introduction of fixed trusts in England in 1931. (Lewcock, Francis, *The Fixed Trust Year Book 1936*, London (1936), p. 4, 72.) The author stated: "In this country the movement has been spread far and wide throughout the country and a definite appeal has been made to the small and medium investor, the person who knows just enough to be not fully satisfied with National Savings Certificates, but who does not know enough to chance his arm in a gamble in rubbers."

²⁴ For a discussion of ownership of certificates of fixed and semifixed trusts, see Report on Investment Trusts and Investment Companies, Pt. Two, Ch. V, Sec. V, p. 441 (House Doc. No. 70, 76th Cong.).

²⁵ An advertisement for North American Trust Shares, 1953, published in daily newspapers throughout the country on October 22, 1931, stated:

"SAFETY ABOVE ALL.—The informed investor knows that the 28 common stocks which underlie North American Trust Shares, largest of all fixed trusts, are among the soundest stocks available. They include such outstanding companies as American Telephone and Telegraph, du Pont, General Electric, Woolworth, Pennsylvania Railroad. If he is a student of economic history, he sees in depressions an opportunity to buy such stocks at bargain

Promoters allayed the feeling of distrust against the financial community by assurances that the underlying stocks were deposited in the safety vaults of outstanding trustees in whose names the stocks were registered.²⁶

The representation was also made that an element of insurance was present in the purchase of stocks through the fixed trust. In a study entitled *Common Stocks as Long Term Investments*,²⁷ the investment quality of common stocks as contradistinguished from bonds and other similar senior securities was analyzed. The thesis of the author was that "well diversified lists of common stocks selected on simple and broad principles of diversification respond to some underlying factor which gives them a margin of advantage over high grade bonds for long term investments," even though some of the companies in the list had finally failed. The theory, therefore, was advanced by sponsors of fixed trusts that investment in a fixed list of the stocks of leading corporations in the United States would reflect the secular growth of the country and that even if a few companies were not successful, the growth of the remaining companies would offset these losses.

Finally, a not unimportant representation by sponsors was that earnings on fixed trusts were from 10% to 14%. The fact that such earnings came largely from the proceeds of the sale of stock dividends, rights, and split-ups of underlying shares, was not always made clear.²⁸

levels—to profit from the constantly rising long-term trend of American business through group holding of high-grade equities."

In an advertisement which appeared in the *Literary Digest* for April 11, 1931, it was said of the stocks in the portfolio:

"Each stock represents a major American industry with a brilliant record behind it, a magnificent future ahead of it. Collectively these stocks represent the cream of big business in the United States. They are what the big investor buys, now made available to even the smallest investors."

Excerpts from an advertisement in *Collier's Magazine* for June 6, 1931, read:

"North American Trust Shares and Cumulative Trust Shares give you an interest in America's Basic Industries. The stocks included in these two Fixed Trusts represent a cross-section of essential American industries. Some notion of their soundness will be gained if you will try to imagine this country deprived of these enterprises—existing without our great telephone, power, and railway systems, without our oil resources and refineries—to mention but a few. Practically every purchase you make, or service bill you pay, is helping to enrich some of these companies."

"At last the once closed door is open—and your turn to *share* in these profits is here!"

"Today, through the medium of two Fixed Investment Trusts, even the man with as little as \$100 can share in the profits of such giant corporations as the American Telephone and Telegraph Company, United States Steel Corporation, Pennsylvania Railroad, General Electric, and a score of others—the same broad list of stocks which have helped to build many of the fortunes in this country."

"Tune in on the FORTUNE BUILDERS Program—Columbia Broadcasting System, Thursdays and Sundays, at 9:30 p. m. E. S. T. and hear the vivid life stories of America's captains of industry."

For copies of above advertisements, see reply to the Commission's questionnaire for North American Trust Shares 1953, Exhibit G-1.

²⁶ In the first advertisement referred to in the previous note it is stated with reference to the investor:

"Additional safety is attained * * * when he buys North American Trust Shares. Common stocks underlying the trust are held in the vaults of a great trust company, acting as Trustee, and are completely segregated from its assets. Untouchable, except for the rightful owners, they remain always the property of North American Trust Shares holders."

See Ch. V, The Trustee, *infra*, for a discussion of the use of a trustee's name to aid sales.

²⁷ Smith, Edgar Lawrence, *Common Stocks as Long Term Investments*, New York (1924).

²⁸ See Ch. VII, Deposited Property, *infra*, for a discussion of this distribution of capital.

With the ground prepared by all these factors, promoters began extensive sales campaigns. The radio, newspapers, the mail, and popular magazines were all used extensively.²⁹ For example, Distributors Group, Incorporated, sponsor of five fixed trusts (among them North American Trust Shares, 1953, the largest fixed trust), spent \$1,034,434.67 for advertising and publicity from May 31, 1930 to December 31, 1933.³⁰

Sponsors were able to interest dealers in the sale of fixed trust shares because commissions allowed to dealers especially during the period of most active competition, were increased almost to 6% of the selling price of the trust shares. These commissions were much more than small dealers had been accustomed to receiving from the sale of bonds, a type of security to which their security distribution had been to a large extent limited. The small dealer was also induced to sell fixed trusts because he could transmit orders as he received them to the wholesale distributor who generally shipped the shares with draft attached. No firm commitment that would tie up capital was necessary. Furthermore, even if shares were immediately sold back by investors, the dealer did not lose his commission, because the shares could be converted by the wholesale distributor into cash through the trustee.

²⁹ In England it may be noted that similar advertising media were used for the sale of fixed trusts. Newspapers, stamp books, posters, etc., were used. (Report of the Departmental Committee appointed by the Board of Trade, pp. 15 and 33.) Advertising in newspapers in 1935 amounted to £225,000 or 0.9% of the value of shares sold, and for the first quarter of 1936 was £112,000 or at the rate of nearly one-half million pounds per annum (Public Examination, Calvin Bullock Trusts at 3936). One of the recommendations of the British Board of Trade, referred to above, was as follows (p. 42) :

“Hawking of Units or Sub-Units

“95. The provisions of the Companies Act, 1929, Section 356 (1), prohibit the hawking of shares and we recommend that on the analogy of these provisions it should be made a criminal offense to go from house to house offering for sale units (or subunits) of a Unit Trust.”

³⁰ Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 1005.

In addition to this amount were the sums spent for advertising by Lee, Stewart & Co., Incorporated, the original sponsors of North American Trust Shares, 1953, in connection with the organization and promotion of trusts from January 2, 1929 to May 31, 1930, the amount of which was not available to the Commission. It may be noted that over \$93,000,000 or more than one-half of the total sales of North American Trust Shares, 1953 were sold by the original sponsors during this early period of promotion. (Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 26.)

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Chapter III

ORGANIZATION AND GROWTH OF FIXED INVESTMENT TRUSTS

I. EARLY FIXED TRUSTS ¹

Among the first fixed trusts offered in this country was the trust distributed by United Bankers Oil Company, Inc., incorporated on November 7, 1923, in Delaware. Under an agreement dated November 7, 1923, this company deposited shares of ten Standard Oil companies in units of 144 shares with Empire Trust Company, New York, as trustee. Bankers' shares, as they were called, 700 in number, were issued against each unit. These shares were in the form of non-voting, bearer certificates, and a right of conversion was given to holders on two months' notice in writing prior to any dividend date to surrender whole units and receive the underlying shares. Stock dividends and rights were sold and the proceeds distributed. Coupons were payable semiannually on January 31 and July 31. The shares were first publicly offered in November 1923 at prices around \$11.50 to \$11.70 per share by The British & General Debenture Trust, Ltd., London, England, sponsors in England, and by Throckmorton & Company, a New York investment house.²

Bankers' shares were also issued in connection with three similar trusts brought out in 1924 under trust agreements with Empire Trust Company. The sponsor for these trusts was also The British & General Debenture Trust, Ltd., London, England, this time with Bonner Brooks & Company as American distributors.³ In the case of all these

¹ For a discussion of the history of investment trusts and investment companies, see Report on Investment Trusts and Investment Companies, Pt. One, Ch. III, at 35 et seq. (House Doc. No. 707, 75th Cong.) and Pt. Three, Ch. I (House Doc. No. 279, 76th Cong.).

² Poor's and Moody's Manual Consolidated, 1924, Vol. II, pp. 1283-1284.

Poor's Industrial Section, 1925, Vol. II, p. 664.

Moody's Manual of Investments, Industrial Securities, 1926, p. 1874.

³ Poor's Industrial Section, 1925, Vol. II, p. 1691. Poor's and Moody's Manual Consolidated, 1924, Vol. II, p. 2187. See also Report on Investment Trusts and Investment Companies, Pt. 1, Ch. III, Sec. III, pp. 105-6 (H. Doc. No. 707, 75th Cong.). For the first of these trusts, dated April 9, 1924, bankers' shares were offered by United American Electric Companies, Inc. The depositor deposited stock in ten Edison companies with the trustee, in blocks of 190 shares each and against each such block received 1,000 bankers' shares of \$10 each par value. Conversion was permitted by holders of shares upon two months' notice in writing, prior to any dividend date, for whole units. Stock dividends and rights were converted into cash and distributed together with cash dividends. The shares were originally offered at \$14.50. (Ibid.)

For the second one, dated May 9, 1924, bankers' shares were offered by United American Chain Stores, Inc. Units of 148 shares each of the common stock of fourteen chain store companies were deposited with the trustee and against each such unit 1,000 bankers' shares were issued. Conversions were permitted to holders of units of bankers' shares upon three business days' notice in writing. No substitution of securities of other companies was allowed except that under certain conditions the deposited stock of not more than 4 of the 14 companies or more than 25% of the total par value of the deposited stock could be sold and

trusts, coupons were payable at the Empire Trust Company, New York, in United States currency or at Empire Trust Company in London, England, in sterling.

William J. Thorold, who sponsored Federated Capital Corporation, a management investment company, described the origin of these bankers' shares as follows:⁴

Q. Now, will you just, Mr. Thorold, in some detail, give some of your financial experience up to the time that Federated Capital Corporation was organized?

A. Well, for some years, immediately prior to that, I organized the first of what became known as the fixed unit investment trust, and I was the first one to think of that type of thing, of investment instrument, and I organized the first four. They were known as United Bankers Oil Company, and they had stocks in ten companies of the Standard Oil group and they—those stocks were deposited with the bank as trustee, and small certificates to the number of, I think, a thousand, were issued against them. They were deposited in what we called units. The unit originally cost us about \$12,000 and against that deposit was issued one thousand certificates, thus making the certificates about twelve thousand dollars, odd.

After that we organized a similar one, which owned stocks of chain stores, I am not sure if I am giving them in chronological order, but it doesn't matter much.

We had, I should think, about ten or fifteen chain stores, and then we had one which we called United American Chain Stores, and then we had one called United American Railways, and each one had the leading companies in its classification, and then we had United American Electric Companies, and it comprised ten or more of the leading public utility companies.

These bankers' shares are so similar to the later fixed trusts that it may be said that except for the name, the fixed trust movement came into existence in its more or less final form in 1923. Nevertheless the fixed trust movement did not progress at this time. It was announced that application would be made to list certain of the shares on the New York Stock Exchange, but the Governing Committee of the New York Stock Exchange on July 24, 1924, passed the following resolution:⁵

Resolved, That participation by a member of the Exchange or Stock Exchange firm in the formation or management of investment trust corporations

the proceeds reinvested in the stocks of the remaining chain store companies in the unit. As in the case of the other trusts, stock dividends and rights were to be sold and the proceeds distributed together with cash dividends. These shares were originally offered at \$16.25 (Poor's Industrial Section, 1925, Vol. II, p. 1187. Poor's and Moody's Manual Consolidated, 1924, Vol. II, p. 2186).

In the case of the last of these trusts, the depositor was United American Railways, Inc. The trust agreement was dated May 9, 1924, and provided for the deposit by the depositor of units of 115 shares each of seventeen railway companies with the trustee. Against each such unit 1,000 bankers' shares were issued. Conversion was permitted to holders of units upon two months' notice in writing, prior to any dividend date. Under the terms of the trust agreement there could be no substitution of securities of other companies, except that deposited stocks of not more than three of the seventeen companies or more than 20% of the total par value of the deposited stocks could be sold and the proceeds distributed with cash dividends. These shares were originally offered at \$14½. (Poor's and Moody's Manual Consolidated, 1924, Vol. II, p. 2188; Poor's Industrial Section, 1925, Vol II, p. 1692.)

⁴ Public Examination, Federated Capital Corporation, at 14427-8.

⁵ Steiner, W. H., *Investment Trusts*, New York (1929), p. 56. Grayson, T. J., *Investment Trusts*, New York (1928), p. 142.

or similar organizations which in the opinion of the Governing Committee involve features which do not properly protect the interests of investors therein may be held to be an act detrimental to the interests or welfare of the Exchange.

Distribution of the shares apparently ceased shortly after this announcement, and redemptions gradually reduced the number of shares outstanding. The trusts were liquidated in 1926. The small margin of profit⁶ was said to have contributed to the discontinuance of the shares. For example, on the trust shares issued by United American Railways, Inc., selling at \$14, this profit was \$1.25, of which 65 cents went to the retail dealer, 15 cents to the English syndicate which sponsored the shares in this country, 24 cents to the trustee for its services, and the remaining 21 cents to the American sponsors.⁶ This loading charge was almost 9% of the selling price, which was approximately the load with which many fixed trusts were later issued.

Shortly after assisting in the distribution of some of the bankers' shares, Throckmorton & Company sponsored a fixed trust, Industrial Trustee Shares, independently. The depositor was American Trustee Share Corporation, incorporated in New York on May 15, 1924, and the trustee was Chatham Phenix National Bank and Trust Company. For every 1,000 trust shares a specified number of shares of ten companies was deposited. The trust was terminated on May 31, 1929.⁷

Calvin Bullock, an investment dealer of Denver, Colorado, who had studied the British investment trusts, brought out in 1924 a fixed investment trust, Nation-Wide Securities Company, Trust Certificates (later described as Series A).

The depositor was Nation-Wide Securities Company, incorporated under the laws of Colorado on December 5, 1924. The Colorado National Bank, of Denver, Colorado, was the trustee, and distribution was largely local in and around Denver, Colorado.⁸ The total amount sold to the public in this trust eventually was approximately \$3,279,000.

The first substantial national distribution of a fixed trust began in 1925, when American Trustee Share Corporation, with Throckmorton & Company as sponsor, brought out a second trust called Diversified Trustee Shares, of which the trustee was Chatham Phenix National Bank and Trust Company.⁹ The trust agreement was dated March 16, 1925, and the trust was of the general distributive type—stock dividends and rights on the underlying securities being sold, and the proceeds distributed to certificate holders. Against the unit, 1,000 trust shares were issued. The first public offering was at \$14.50 per

⁶ For a discussion of these trusts, see Steiner, *op. cit.*, p. 56, and Grayson, *op. cit.*, p. 141.

⁷ Poor's Industrial Section, 1925, Vol. I, p. 1684. Moody's Manual of Investments, Industrial Securities, 1926, p. 168.

The Commission was unable to secure any additional information concerning this trust (Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7436).

⁸ Public Examination, Calvin Bullock Trusts, at 3711.

As originally set up, the unit contained 300 shares of underlying stocks, but the trust was of the general cumulative type, and the underlying shares had increased to 529 by February 1, 1932, where the number remained. Each trust share represented 1/2500th interest in the unit. The original offering price was \$10.25 per share.

⁹ Chatham Phenix National Bank and Trust Company was merged in 1932 with Manufacturers Trust Company, which thereupon succeeded to trusteeship of this trust.

share in April 1925.¹⁰ The trust was finally liquidated on April 1, 1933, but the public distribution reached over \$10,300,000.¹¹

About this time a fixed trust was brought out in Massachusetts by New England Investment Trust, Inc., incorporated in Massachusetts on September 14, 1925. The trust, Collateral Trustee Shares, with 1,000 shares to the unit, was based on securities of industrials, public utilities, and railroads. The trustee was Federal National Bank, Boston, Massachusetts.¹² These trust shares were offered in February 1926, at about \$10.50 per share. Approximately \$5,520,000 of these shares had been sold by the middle of 1927.¹³

Following these early trusts, a lull in the fixed trust movement seemed to set in until 1927. In that year, Calvin Bullock brought out a second trust, United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, dated April 23, 1927, a trust based on stocks of public utilities. The public participation in this trust ultimately reached \$58,000,000. In addition, United States Shares Corporation was incorporated in April 1927, and became the depositor of 12 fixed trusts from 1927 to 1930. Six of these trusts have been terminated.¹⁴ The trusts sponsored by United States Shares Corporation were an important factor in developing public interest in the fixed-trust field.

Another trust for which considerable distribution was achieved during this period was Collateral Trustee Shares, Series A, of which Investment Trust of New York, Inc., incorporated in Maryland on December 12, 1927, was the depositor. The trust agreement was dated January 31, 1928. The trust emphasized diversification to a high degree, the unit being made up of 120 shares of 75 corporations.¹⁵

In 1927, also, certain other developments took place which were to have important results. On August 19, 1927, Fixed Trust Shares, the trust agreement of which was dated July 1, 1927, was brought out by a group consisting of F. J. Lisman & Company, New York City, a member of the New York Stock Exchange, Ross Beason & Company, Salt Lake City, Utah, and Smith, Burris & Company, Chicago, Illinois. Like Diversified Trustee Shares, this trust required the sale of stock dividends and rights but was of the cumulative type as to split-

¹⁰ Moody's Manual of Investments, Industrial Securities, 1926, p. 168.

¹¹ See p. 31, *infra*.

¹² Moody's Manual of Investments, Industrial Securities, 1926, p. 854. A later series was brought out on April 16, 1927 (Keane's Manual of Investment Trusts, 1928, p. 514).

See Chapter IV, the Depositor, *infra*, for a further discussion of the depositor of this trust, for which a receiver in bankruptcy was appointed on March 2, 1928.

¹³ Steiner, *op. cit.*, p. 58.

A very small fixed trust among the early trusts was Foreign Government Bond Trust Certificates dated June 15, 1925, of which Financial Investing Co. of New York, Ltd., was sponsor and Empire Trust Company, trustee. The portfolio of this trust consisted of fifteen \$1,000 bonds of foreign countries. Five hundred trust certificates were issued against a unit, and were referred to in the offering circular as "Trust Company Safe-Keeping Receipts." Three units were deposited of which two were converted prior to January 1, 1927. Five of the underlying bonds were called for redemption and eliminated. The trust was terminated on February 15, 1932.

Another early fixed trust was California Oil Investment Trust, dated April 1, 1925, the depositor of which was Investment Bond & Share Company, Pasadena, California.

¹⁴ Information concerning some of the others of these fixed trusts was not available by reason of numerous assignments of the interest of the depositor from one group to another and numerous successions of trustees. See Ch. IV, The Depositor, *infra*.

¹⁵ See Ch. VIII, Eliminations and Substitutions, *infra*.

ups. The trust had a reserve fund of \$1.00 per share (to be increased out of earnings to \$1.50 per share) out of which funds could be drawn in the event distributions called for by coupons for semiannual payments fell below 50 cents per share. The unit contained 130 shares of 30 different corporations. The trustee was The Equitable Trust Company of New York.¹⁶ One thousand trust shares were issued against the unit. The shares were first offered at \$17½ per share.

More or less as a companion to Fixed Trust Shares, Basic Industry Shares, dated July 1, 1928, was brought out on October 9, 1928. This trust had the same portfolio as Fixed Trust Shares but was of the distributive type in that stock dividends and rights were sold and the proceeds thereof distributed to the certificate holder. The Equitable Trust Company of New York was also trustee of this trust.¹⁷ The unit was divided into 2,500 parts with a reserve fund of 50 cents per share to provide for a coupon payment of 25 cents per share semi-annually. By the division into 2,500 parts, the initial offering price was made \$8½ per share.¹⁸

On January 1, 1929, a group formerly associated with F. J. Lisman & Company formed the firm of Lee, Stewart & Co., Incorporated, as the sponsor, and Distributors Group, Incorporated,¹⁹ as the depositor of North American Trust Shares. This trust, which was later known as North American Trust Shares, 1953, and which became the largest of the fixed trusts, a total of \$184,891,572 being sold, was of a general distributive type. Even split-ups in excess of the number of shares previously held were sold and the proceeds distributed to certificate holders. The trustee was Guaranty Trust Company of New York.²⁰

In the meantime, Fixed Trust Shares, Series B, dated January 1, 1929, very similar to the Original Series, was originated by the Lisman-Beason-Burris group as sponsors, with American Basic-Business Shares Corporation as depositor, and The Equitable Trust Company of New York, as trustee.²¹ The initial deposit of shares was made with the trustee on February 20, 1929.

Later in 1929, Ross, Beason & Co., Inc., and Smith, Burris & Company—F. J. Lisman & Company not participating—organized Cor-

¹⁶ The Equitable Trust Company of New York was merged with The Chase National Bank of the City of New York on June 2, 1930, at which time the latter bank became the successor trustee. (See the reply to the Commission's questionnaire for Fixed Trust Shares.)

¹⁷ *Ibid.*

¹⁸ About this time a number of specialized fixed trusts were developed. One was Trustee Standard Oilshares, Series A, dated June 27, 1928, limited to a portfolio of shares in the Standard Oil Company group. Empire Trust Company, New York City, was trustee and Dwelly, Pearce & Company, Inc. was the sponsor. Another specialized trust was Deposited Bank Shares, Series B-1, dated December 1, 1928, a fixed trust based on bank stocks of Philadelphia banks with The Pennsylvania Company for Insurance on Lives and Granting Annuities as trustee. Still another was Standard Oil Trust Shares, Series A, organized on April 29, 1929 and first publicly offered in October 1929 by Standard Oil Group, Inc. The trustee was Bank of America, N. A., with the City Bank Farmers Trust Company, New York City, as successor trustee.

¹⁹ Distributors Group, Incorporated, was organized on December 24, 1928, as Founders Group, Incorporated. The name was changed to Distributors Group, Incorporated, on January 18, 1929. (Reply to the Commission's questionnaire for North American Trust Shares, 1953.)

²⁰ Reply to the Commission's questionnaire for North American Trust Shares, 1953.

²¹ The Chase National Bank of the City of New York became successor trustee upon its merger with The Equitable Trust Company of New York. (Reply to the Commission's questionnaire for Fixed Trust Shares, Series B.)

porate Trust Shares with American Depositor Corporation, incorporated on May 25, 1929, as depositor. This trust, which in time became the second largest of the fixed trusts, a total of \$144,995,823 being sold, was of a general distributive type, with split-ups as well as stock dividends being sold and the proceeds distributed, as in the case of North American Trust Shares. The trustee was The Equitable Trust Company of New York.²²

II. NUMBER OF TRUSTS ORGANIZED ²³

While up to 1929 the growth of fixed trusts had been slow and the number organized unimportant,²⁴ the effect of the successful distribution of North American Trust Shares and Corporate Trust Shares was to bring on a veritable avalanche of fixed trusts. Table 2 and Chart I show the development prior to 1929 and the rapid growth which followed in 1930:²⁵

TABLE 2.—*Number of fixed trusts organized annually and number active*

Year	Number organized	Cumulative basis	Number inactive	Number active	Year	Number organized	Cumulative basis	Number inactive	Number active
1923-----	1	1	-----	1	1930-----	77	140	14	126
1924-----	6	7	-----	7	1931-----	35	175	32	143
1925-----	4	11	-----	11	1932-----	21	196	67	129
1926-----	-----	11	4	7	1933-----	11	207	82	125
1927-----	19	30	4	26	1934-----	5	212	92	120
1928-----	10	40	9	31	1935-----	12	224	• 116	108
1929-----	23	63	11	52					

* This number includes 4 trusts which were dissolved or inactive but for which no date of dissolution or inactivity was available.

Up to January 1929, the fixed trust movement was of minor importance, comparatively few trusts being organized year by year and a few dissolutions taking place. In 1929, 23, and in 1930, 77 new fixed trusts were organized. One of the reasons for this increase was the reaction of investors to management investment companies. The market price of the shares of United Founders Corporation, one of the largest management investment companies, had dropped from a high of \$75½ in 1929 to \$6 in 1930 and a new low of \$1⅜ in 1931. The shares of The Goldman Sachs Trading Corporation, another management investment company, had dropped from a high of \$226 in 1929 to a low of \$1¾ in 1931 after a split, 2 for 1. Apparently, during

²² Reply to the Commission's questionnaire for Corporate Trust Shares (Original Series). The Chase National Bank of the City of New York became successor trustee upon its merger with the Equitable Trust Company of New York.

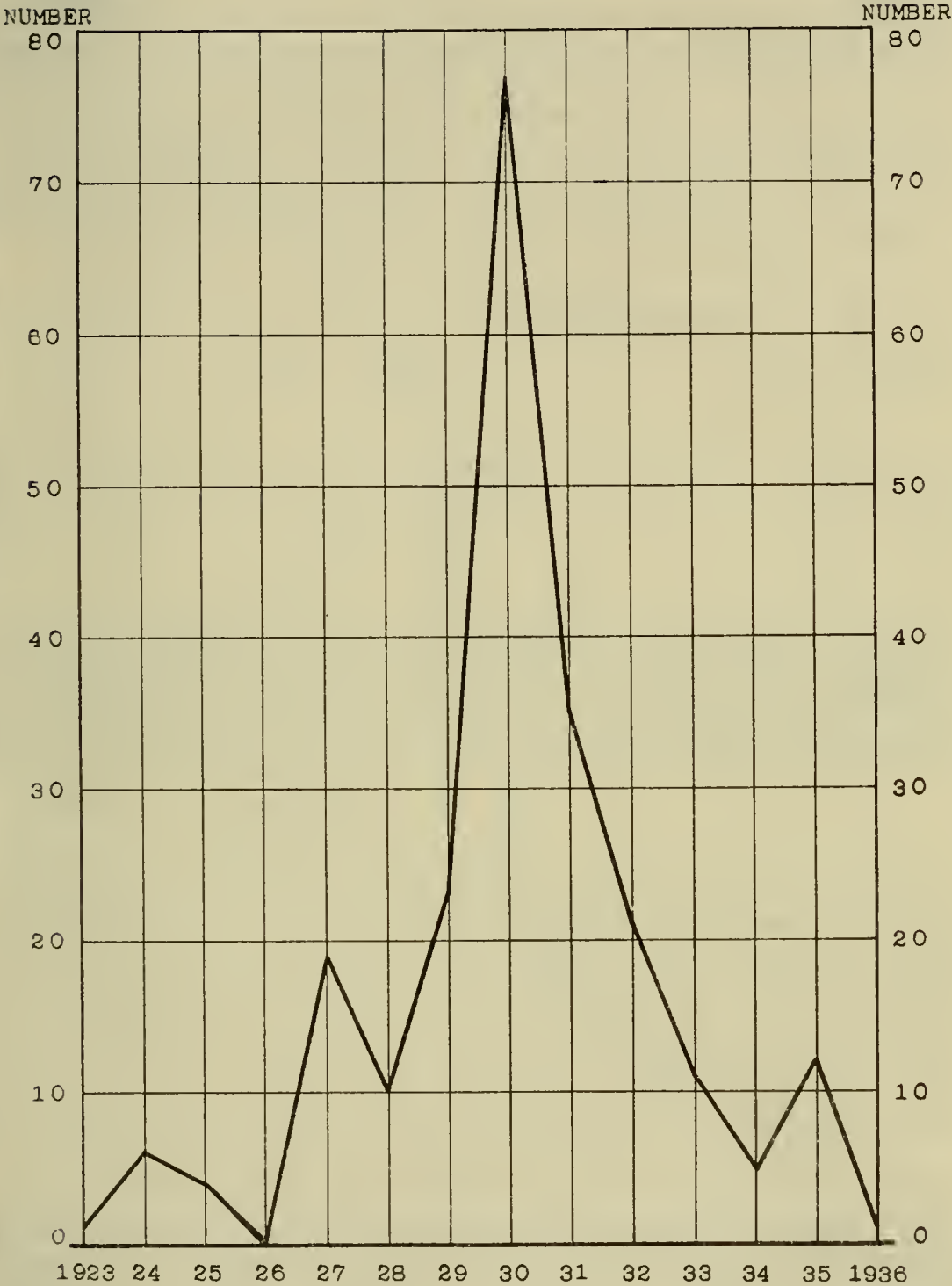
²³ Appendix D contains an analysis of size and assets of fixed and semifixed investment trusts.

²⁴ For a comparison of the number of fixed trusts with other types of investment companies at year ends, 1926-1936, see Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, at 27-9, Table 2 and Chart 1; at 29, 30, 112-3, Table 3 and Chart 2 and Table 17 (House Doc. No. 70, 76th Cong.).

²⁵ See also Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, at 30 (House Doc. No. 70, 76th Cong.).

CHART I

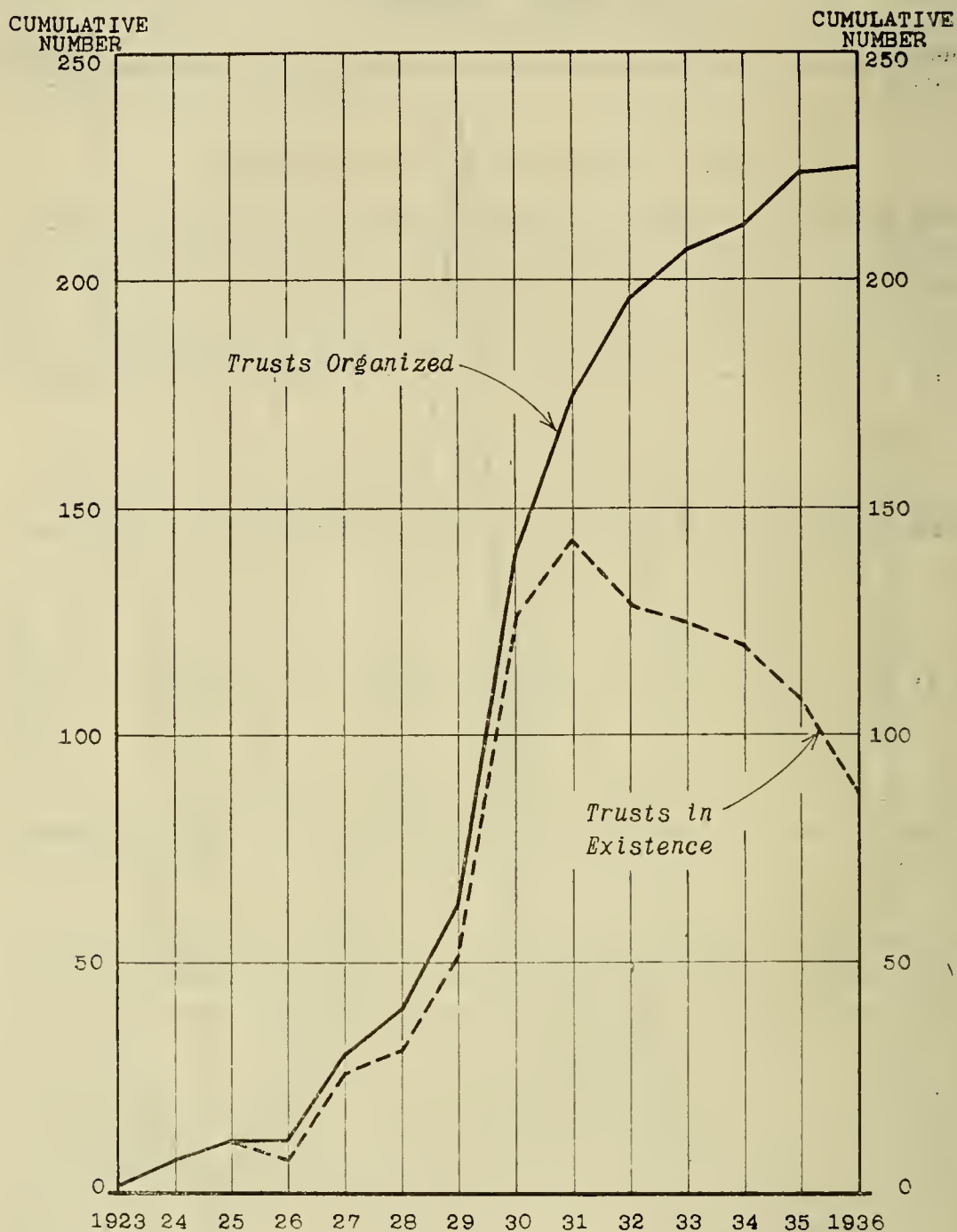
NUMBER OF FIXED AND SEMI-FIXED TRUSTS
ORGANIZED ANNUALLY
1923 - 1936



this period, investors believed that the investment trust idea was sound but had no confidence in management. However, in 1933, the number of new fixed trusts created dropped to 11 and in 1934 to 5. Apparently, by this time the fixed-trust idea also had fallen into popular disfavor. (See Chart II.)

CHART II

CUMULATIVE NUMBER OF FIXED AND SEMI-FIXED TRUSTS
ORGANIZED ANNUALLY AND NUMBER IN EXISTENCE AT YEAR-ENDS
1923 - 1936



The collapse of the fixed trust movement was even greater than is indicated by the diminution in the number of new fixed trusts created. Beginning in 1931, a campaign of inducing investors to exchange their fixed trust shares for other securities was inaugurated by certain houses.²⁶ In addition, investors themselves converted large

²⁶ See Chapter XII, Exchanges of Trust Shares, *infra*. At first the exchanges were made into the shares of other fixed trusts; but by 1933, the shares offered the holders of fixed trust shares were principally securities of open-end management investment companies. (Ibid.)

quantities of their trust shares by taking down from trustees the underlying securities.²⁷

III. TOTAL SALES AND TOTAL ASSETS OF FIXED TRUSTS²⁸

Although the earliest fixed and semifixed investment trusts were organized in 1923, it was not until 1928 that sales of their shares began to assume sizable proportions and it was not until 1930 that this type of trust attained national prominence.²⁹

Table 3 indicates the total sales of fixed-investment trusts for the period 1927-36 and the percentage of such sales of the total sales of all types of investment trusts and investment companies.³⁰

TABLE 3.—*Sales of fixed investment trusts, 1927-36*^a

(Amounts in millions of dollars)

Year	Sales of fixed trusts	Percent-age of total sales	Year	Sales of fixed trusts	Percent-age of total sales
1927.....	25	6.5	1933.....	12	9.7
1928.....	47	4.9	1934.....	12	7.9
1929.....	88	2.9	1935.....	24	14.0
1930.....	336	40.7	1936.....	15	7.5
1931.....	266	79.2			
1932.....	74	59.7	Total.....	899	14.2

^a Data represent the approximate cost to investors (gross proceeds) of certificates sold by some 225 fixed trusts. Of this total, 42 trusts which accounted for \$750,000,000 of sales or about 83% are included in the detailed statistics. Data on the remaining trusts were obtained from summary statements and from miscellaneous published sources. Included in fixed trust sales are the transactions of several trusts, such as North American Bond Trust and the 25 series of Keystone Custodian Funds, which sold close to \$20,000,000, but which occupy a doubtful status and might be considered open-end management companies. Sales figures have been calculated by adding 8% (estimated as the average load) to the cost of property deposited with trustees. The annual figures are based on the annual distribution of data representing the cost of property deposited for 42 trusts.

^b Estimated.

²⁷ See Chapter XI, Realizing on Shares, *infra*.

²⁸ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, Sec. III, at 38 (House Doc. No. 70, 76th Cong.), and Appendix D of this report.

²⁹ The classification of fixed and semifixed investment trusts was comparatively without difficulty, except for the problems presented by a few trusts which, because of the flexibility of investment policy permitted by their trust agreements, might have been considered as open-end management investment companies proper. In these borderline cases, the ultimate classification was customarily based primarily on the type of questionnaire answered by the concern, because of the mechanical difficulties of adapting material filed in reply to one type of questionnaire to the requirements of another type. The coverage for the group is relatively complete, at least with respect to the estimates of total assets and gross proceeds from sales of trust certificates, although a number of small trusts, unimportant for the picture as a whole, have been omitted.

The total amount of funds raised was known or could be estimated with reasonable accuracy for over one-half the number of fixed trusts, which accounted for about 90% of all sales by this group. Annual income accounts and other financial statements and miscellaneous detailed statistics were furnished in reply to the Commission's questionnaire by approximately 50 fixed trusts, which are estimated to have accounted for more than 75% of the total assets of all fixed trusts in every year from 1927 to 1935. Moreover, for several other items detailed statistics were compiled which included many of the smaller trusts, thus substantially increasing the coverage. For these reasons, and also because the differences among individual fixed trusts are small, the figures presented, except where otherwise indicated, may be regarded as entirely representative of this section of the investment company industry. (See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. I, Sec. IV, at 10 (H. Doc. No. 70, 76th Cong.).

³⁰ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. I, at 190, Table 60 (House Doc. No. 70, 76th Cong.).

At the end of 1929 only 52 fixed and semifixed trusts were known to be in existence as compared with 143 two years later.³¹ In 1930 total sales of their new certificates amounted to \$336,000,000 as compared with \$88,000,000 in 1929 and \$47,000,000 in 1928.³² Another year of large scale distribution followed in 1931 with \$266,000,000 of new sales, but sales dropped sharply to \$74,000,000 in 1932. Thereafter sales dwindled steadily until they virtually ceased. At the peak of the fixed trust boom in 1930 and 1931, \$600,000,000 of their certificates were sold, representing about 67% of the \$900,000,000 total of fixed and semifixed trust securities sold between 1927 and 1936.

Table 4 gives total asset data for 104 fixed and semifixed trusts for which total assets are known.³³ These figures are compared in Chart III with the annual sales of the certificates of these trusts.

TABLE 4.—*Number and total assets^a at year-ends of fixed investment trusts^b*

Year	Number of companies ^c	Amount of total assets (in millions of dollars) ^d	Year	Number of companies ^c	Amount of total assets (in millions of dollars) ^d
1927.....	9	25	1932.....	83	179
1928.....	13	67	1933.....	85	171
1929.....	26	131	1934.....	83	135
1930.....	65	290	1935.....	76	169
1931.....	79	228	1936.....	61	170

^a Total assets at market value wherever available.

^b See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, at 112-4 (H. Doc. No. 70, 76th Cong.).

^c Includes data for trusts the total assets of which were known to the Commission for the last year the trusts were in existence within the period 1927-1936.

^d Excludes data for approximately 120 fixed trusts for which comparatively little information is available. It is estimated, however, that the companies included in this table owned approximately 80% of the total assets of all fixed trusts at the end of 1929 and over 90% of the total assets at the end of 1936.

At the end of 1927 the total assets of the nine trusts then in the group amounted to \$25,000,000 or between 1% and 2% of the known total assets of all types of investment trusts and investment companies at that date; rose to \$131,000,000, or over 2% of the known total assets of the entire industry by the end of 1929; reached \$228,000,000, their peak of relative importance, or between 7% and 8% of the total assets of the industry at the end of 1931; and declined to \$170,000,000, less than 4% of the total assets of the industry, by the end of 1936.

IV. TOTAL SALES BY LEADING SPONSORS³⁴

The following table (Table 5) presents, with respect to 42 fixed trusts, the extent of concentration of sales of trust shares for the period

³¹ See Section II, p. 24, *supra*, this chapter, and Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, Sec. III, at 38-9 (H. Doc. No. 70, 76th Cong.).

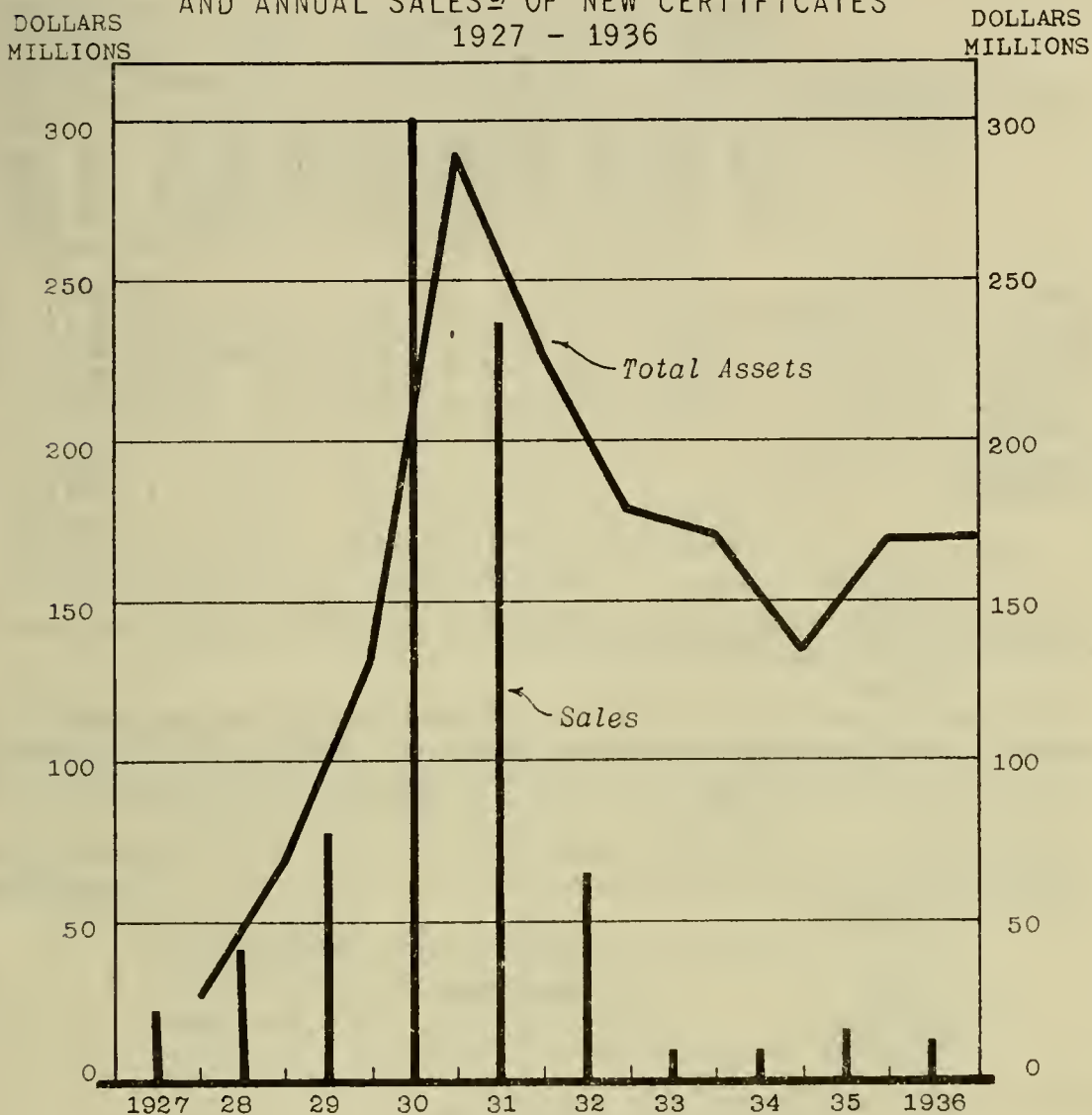
³² See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. I, at 187 (House Doc. No. 70, 75th Cong.).

³³ See this chapter, Chart III, *infra*.

³⁴ See also Appendix D, Analysis and Size of Assets of Fixed Investment Trusts, and Report on Investment Trusts and Companies, Pt. Two, Ch. II, Sec. VII, at 98 (House Doc. No. 70, 76th Cong.).

CHART III

TOTAL ASSETS OF FIXED AND SEMI-FIXED INVESTMENT TRUSTS^{a/}
 AT YEAR-ENDS
 AND ANNUAL SALES^{b/} OF NEW CERTIFICATES
 1927 - 1936



^{a/} Total assets and sales data for 104 trusts

^{b/} Exclusive of resales

1927-1935.³⁵ Of these trusts, 26 sold less than \$10,000,000 of certificates during the 9 years from 1927 to 1935, their total sales representing less than 15% of sales by all fixed trusts. Two trusts, which started operations during 1929, each sold more than \$100,000,000 of certificates and had aggregate sales equal to over 40% of the total.³⁶

³⁵ Small trusts, those with less than \$500,000 of total assets at any time during the period, are not included in this table.

³⁶ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. III, at 212-3 (House Doc. No. 70, 76th Cong.).

The sales of certificates of the fixed-investment trusts sponsored by Distributors Group, Incorporated, Ross Beason & Co., Inc. (Maryland Sponsors, Inc.), and Calvin Bullock amounted to over \$550,000,000 in the period 1927-1935 or over 60% of the total sales of all fixed trusts. (Id., Pt. Two, Ch. III, Sec. III, at 212-3.)

TABLE 5.—*Classification of 42 fixed and semifixed investment trusts by amount of gross sales according to year of first offering,^a 1927-35*

[Amounts in millions of dollars]

Amount of sales, 1927-35	Trusts with first offering prior to 1928		Trusts with first offering in 1928-29		Trusts with first offering in 1930-31		Trusts with first offering in 1932-35		Totals for 42 trusts		
	Number of trusts	Amount of total sales	Number of trusts	Amount of total sales	Number of trusts	Amount of total sales	Number of trusts	Amount of total sales	Number of trusts	Total sales	
										Amount	Percent of total
0-2,499.....	1	1.0	2	4.0	3	5.3	2	1.3	8	11.6	1.5
2,500-4,999.....			1	3.4	7	21.9	1	2.9	9	28.2	3.8
5,000-9,999.....	2	17.8	2	12.7	3	24.6	2	13.6	9	68.7	9.2
10,000-24,999.....	1	15.9			7	111.2			8	127.1	16.9
25,000-49,999.....	1	35.8	1	36.2	4	123.8			6	195.8	26.1
50,000-99,999.....											
100,000-149,999.....			1	145.3					1	145.3	19.4
150,000-199,999.....			1	173.1					1	173.1	23.1
Total.....	5	70.5	8	374.7	24	286.8	5	17.8	42	749.8	100.0

^a Comprised of fixed trusts with maximum assets at market value of \$500,000 and more at any year end, which filed replies to the Commission's questionnaire.

The greater part of the total sales of fixed trust shares was made by sponsors who had organized their trusts and distribution machinery prior to 1930.³⁷ Six sponsors sold an aggregate of approximately

³⁷ These sponsors, with the amount of securities of fixed trusts and of management type investment companies sold by them to the end of 1935, were as follows (date in parentheses is date of organization) :

TABLE 6.—*Total sales of leading sponsors*

<i>Fixed trusts</i>		<i>Total sales</i>
Calvin Bullock :		
Nation-Wide Securities Company, Trust Certificates, Series A (1924).....		\$3, 279, 377
United States Electric Light & Power Shares, Inc., Trust Certificates, Series A (1927).....		58, 313, 822
United States Electric Light & Power Shares, Inc., Trust Certificates, Series B (1930).....		47, 965, 802
Nation-Wide Securities Company, Trust Certificates, Series B (1930).....		25, 132, 108
Total.....		\$134, 691, 109
<i>Management investment companies</i>		
Bullock Fund, Ltd. (1932).....		\$2, 495, 000
International Superpower Corporation (1928).....		15, 865, 325
Carriers and General Corporation (1929).....		21, 390, 000
Bullock Fund, Ltd. (New) (1932).....		2, 354, 000
Canadian Investment Fund, Ltd. (1932).....		3, 428, 885
Nation-Wide Securities Company (Maryland) (1932).....		9, 186, 996
United States Electric Light & Power Shares, Inc. (Maryland) (1932).....		Unknown
Dividend Shares, Inc. (1932).....		30, 103, 755
		84, 823, 961

\$759,000,000 of fixed trust shares. Of this amount, approximately \$135,000,000 was sold by Calvin Bullock; approximately \$258,000,000 by Distributors Group, Incorporated; approximately \$79,000,000 by

Management investment companies—Continued

Distributors Group, Incorporated :

(Lee, Stewart & Co., Incorporated, sponsor 1929–1930.) On March 21, 1938, Distributors Group, Incorporated assigned its rights as depositor for the fixed trusts to North American Depositor Corporation, and on May 11, 1938, sold its interest in that corporation to Lord, Abbett & Company, Inc. (See discussion of this transfer in Ch. IV, The Depositor, p. 53, *infra*.)

<i>Fixed trusts</i>	<i>Total sales</i>
North American Trust Shares, 1953 (1929)-----	\$184, 891, 572
Cumulative Trust Shares (1930)-----	13, 104, 788
North American Trust Shares, 1955 (1931)-----	28, 493, 077
North American Trust Shares, 1956 (1931)-----	30, 469, 262
North American Trust Shares, 1958 (1933)-----	950, 540
Total-----	\$257, 909, 239

Management investment companies

North American Bond Trust (1932)-----	\$9, 415, 889
Group Securities, Inc. (1933)-----	5, 800, 000
Foreign Bond Associates, Inc. (1933)-----	280, 000
	15, 495, 889

Massachusetts Distributors, Inc. :

(Throckmorton & Company, sponsor 1924–1930 ; Johnson, Peterson and Griffith, sponsor, 1930–1930 ; W. A. Harriman & Co., Inc., later Brown Brothers Harriman & Co., sponsor 1930–1934 ; Merchant-Sterling Corporation, sponsor 1934–1934.)

<i>Fixed trusts</i>	
Industrial Trustee Shares (1924)-----	Unknown
Diversified Trustee Shares (1925)-----	\$10, 322, 635
Diversified Trustee Shares, Series B (1927)-----	16, 104, 196
Diversified Trustee Shares, Series C (1929)-----	40, 331, 571
Diversified Trustee Shares, Series D (1931)-----	12, 516, 401
Total-----	79, 274, 803

Management investment companies

Massachusetts Investors Trust (1924)-----	\$77, 204, 553
Supervised Shares, Inc. (1932)-----	10, 204, 553
	87, 409, 106

Maryland Sponsors, Inc. :

(F. J. Lisman & Company, cosponsor 1927–1930 ; Ross Beason & Co., Inc. and Smith, Burris & Company, sponsors.)

<i>Fixed trusts</i>	
Fixed Trust Shares (1927)-----	\$9, 824, 876
Basic Industry Shares (1928)-----	6, 507, 103
Fixed Trust Shares, Series B (1929)-----	2, 274, 966
Fixed Trust Oil Shares (1930)-----	299, 430
Corporate Trust Shares (1929)-----	144, 995, 823
Five-Year Fixed Trust Shares (1931)-----	1, 695, 641
Corporate Trust Shares, Accumulative Series (1931)-----	19, 019, 311
Corporate Trust Shares, Series AA (1931)-----	15, 891, 624
Corporate Trust Shares, Accumulative Series (Modified) (1932)-----	12, 194, 122

Massachusetts Distributors, Inc. or its predecessors; approximately \$203,000,000 by Maryland Sponsors, Inc. or its predecessors; approximately \$58,000,000 by Super-Corporations of America Depositors,

Management investment companies—Continued

Maryland Sponsors, Inc.—Continued.		<i>Total sales</i>
Corporate Trust Shares, Series AA (Modified)		
(1932) -----	\$10,464,524	
	<u>223,167,420</u>	
Deduct for Modified Shares-----	19,804,639	
Total-----		\$203,362,781

Management investment companies

Quarterly Income Shares, Inc. (1932)-----	\$35,857,000
The Maryland Fund, Inc. (1934)-----	4,838,000
	<u>40,695,000</u>

Super-Corporations of America Depositors, Inc.:

(S. W. Straus & Co., Incorporated, sponsor 1930-1933; Manufacturers Trust Company, sponsor 1933-1933; Brown Brothers Harriman & Co., sponsor 1933-1935; Massachusetts Distributors, Inc., sponsor 1934-1935; Lord, Abnett & Company, Inc., 1935-38; Massachusetts Distributors, Inc., 1938—.)

Fixed trusts

Super-Corporations of America Trust Shares:	
Series A (1930)-----	\$29,790,261
Series B (1930)-----	14,155,290
Series C (1931)-----	2,834,303
Series D (1931)-----	2,803,745
Series AA (1932)-----	5,996,374
Series BB (1932)-----	2,773,140
Total-----	58,353,113

Management investment companies (sponsored by Lord, Abnett & Company, Inc.)

American Business Shares, Inc. (1932)-----	\$3,916,325
Affiliated Fund, Inc. (1934)-----	1,491,449
	<u>5,407,744</u>

Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.):

Fixed trusts

Deposited Bank Shares, Series B-1 (1928)-----	\$2,522,123
Deposited Bank Shares, Series NY (1929)-----	4,665,054
Deposited Insurance Shares, Series A (1930)-----	8,882,231
Deposited Bank Shares, N. Y., Series A (1930)-----	9,185,829
Deposited Insurance Shares, Series B (1935)-----	17,000(est.)
Total-----	25,272,237

Installment investment plans (cash paid in)

Insurance Stock Plan Contract Certificates (1932)---	\$262,740
New York Bank Stock Contract Plan Certificates	
(1932) -----	110,945
	<u>373,685</u>

Total sales of fixed trusts as of Dec. 31, 1935----- 758,863,282

These six sponsors filed responses to 32 questionnaires out of a total of 56 received for all trusts in which there had been a public participation up to the end of 1935 of \$500,000 or more and 2 summary statements out of a total of 102 filed for trusts with a public participation of less than \$500,000.

Inc.; and approximately \$25,000,000 by Transcontinent Shares Corporation. In addition, these sponsors during the period sold an aggregate of approximately \$234,000,000 of securities of management investment companies.

The balance of the 21 sponsors who filed responses to the Commission's questionnaire accounted for sales of \$65,191,780. Apparently aggregate sales of less than \$50,000,000 were made for the remaining 100 out of the 102 trusts for which summary statements were filed. In other words, six sponsors out of a total of 127 who submitted some data to the Commission accounted for approximately 87% of the total sales of fixed trust shares to the public.³⁸

V. FIXED TRUST ACTIVITIES OF BROKERAGE HOUSES

Other than the professional sponsors, the only groups which succeeded in selling appreciable amounts of fixed trust certificates were a few of the larger brokerage firms. These firms, apparently unwilling to see their clients purchase fixed trust certificates offered by other distributors, organized their own fixed trusts. E. A. Pierce & Company, one of the largest commission houses of the New York Stock Exchange, organized two series of Fundamental Trust Shares on July 1, 1930, and secured a distribution for Series A of \$5,129,412 and for Series B of \$3,049,462.³⁹ Several brokerage houses also acted jointly to organize Representative Trust Shares of which the depositor was Mutual Depositor Corporation, incorporated on January 19, 1931. Among the organizers of the depositor were Cassatt & Company, E. F. Hutton & Company, Hornblower & Weeks, Edward B. Smith & Company, all of New York City; Mitchell, Hutchins & Company, of Chicago, Illinois; and G. H. Walker & Company, of St. Louis, Missouri. The public distribution of this trust, which apparently was not very wide, was \$9,671,000.⁴⁰ The members of G. M.-P. Murphy & Company organized New York Bank Trust Shares on August 1, 1930, which had a distribution of \$3,515,000.⁴¹ Merrill, Lynch & Company organized Chain Store Shareowners, Inc., in November 1930.⁴² Dillon, Read & Company organized National Trust Shares, dated January 7,

³⁸ Several of the largest distributors of fixed trusts were at times affiliated with each other. Throckmorton & Company were the first distributors of a fixed trust, that of United Bankers Oil Company, Inc. sponsored by The British & General Debenture Trust, Ltd., London, England. Shortly afterwards, Throckmorton & Company set up independently a new fixed trust, Diversified Trustee Shares. One of the local distributors of this trust was Ross Beason & Company of Salt Lake City, Utah (Public Examination, Ross Beason & Co., Inc., Group. at 10981). In 1927, Ross Beason & Company set up independently a trust, Fixed Trust Shares, with F. J. Lisman & Company and Smith Burris & Company as sponsors. Lee, Stewart & Co., Incorporated was made up of former associates of F. J. Lisman & Company, and this firm in 1929 set up independently a trust, North American Trust Shares, 1953.

United States Shares Corporation, which was depositor of 12 fixed trusts, was formed in April 1927 by a former vice president of the New England Investment Trust, Inc. (Steiner, *op. cit.*, p. 58).

³⁹ Replies to the Commission's questionnaire for Fundamental Trust Shares, Series A and Series B.

⁴⁰ Reply to the Commission's questionnaire for Representative Trust Shares.

⁴¹ Reply to the Commission's questionnaire for New York Bank Trust Shares.

⁴² Information on the amount of shares distributed is not available. See Ch. II, note 6, p. 9, *supra*.

1931, selling a total of \$3,688,000.⁴³ Palmer & Company, formerly members of the New York Stock Exchange, brought out National Industries Shares, Series A, dated May 31, 1930, and Series B, dated May 1, 1931, distribution of which is estimated at between \$3,000,000 and \$4,000,000. James C. Willson & Company and Hemphill, Noyes & Company brought out Low-Priced Shares, dated January 15, 1931, the estimated distribution of which was \$2,500,000.⁴⁴ Stein Bros. & Boyce organized Business Recovery Trust Shares, dated March 1, 1931, which had a small distribution.⁴⁵ S. W. Straus & Co., Incorporated, which was listed among the larger sponsors, was also in the class of dealers which sold securities other than fixed trusts and which utilized to a certain extent its large real estate bond distributing organization to effect sales of the trust shares.⁴⁶

VI. REASONS FOR POSITION OF SIX LEADING SPONSORS

There are several reasons for the predominant position held by the six leading sponsors. First, these sponsors had made and cemented contacts with the more active and aggressive distributors among the 9,500 in the United States. Furthermore, the dealers, having had success with the leading trusts, were reluctant to undertake sales of unknown trusts. In addition the leading sponsors, under the pressure of competition from the new sponsors of fixed trusts, had raised dealers' commissions to 5% or more of the selling price of the trust shares, so that dealers had no monetary inducement to undertake the sale of competitive trusts. Also, leading sponsors spent extremely large sums in advertising—Distributors Group, Incorporated, for example, spent considerably over \$1,000,000 for advertising from 1930 to 1935⁴⁷—so that the public became accustomed to asking for certain "standard articles" when solicited by salesmen for fixed investment trusts. Finally, the newcomers had little that was novel to offer because the established sponsors were constantly anticipating public demand by bringing out new models in rapid succession.⁴⁸

Several other factors, arising principally from attempts at regulating fixed trusts, operated to tighten further the monopoly of the leading sponsors. For example, the requirements of the New York Stock Exchange for fixed trusts, dated May 7, 1931, provided, among other things, for an application fee of \$2,500 before the trust could be included in the list of unobjectionable fixed trusts with which members of the New York Stock Exchange might be affiliated or which they might distribute.⁴⁹ So, too, a burden was to some extent imposed by the securities commissions of the various states which tended to impede the formation of new fixed trusts except for the distribu-

⁴³ Reply to the Commission's questionnaire for National Trust Shares.

⁴⁴ Reply to the Commission's questionnaire for Low-Priced Shares.

⁴⁵ Summary statement for Business Recovery Trust Shares.

⁴⁶ Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A (Supplementary information).

⁴⁷ See Ch. IX, Distribution of Fixed Trust Shares, p. 157, *infra*.

⁴⁸ See Ch. XII, Exchanges of Trust Shares, *infra*.

⁴⁹ See Appendix K, New York Stock Exchange Requirements for Fixed or Restricted Management Type Investment Trusts with which Member Firms are Seeking Authority for Association in Connection with Their Acquisition or Management or with the Distribution of Their Securities.

tors with well-organized and substantial facilities. Furthermore, it became more and more difficult for an unknown sponsor to secure a leading bank or trust company to act as a trustee of a fixed trust.

VII. NOTABLE CHANGES IN SPONSORSHIP SINCE 1935

By December 31, 1935,⁵⁰ most of the activity in the fixed trust field had ceased. However, certain developments have occurred since that time, particularly with reference to the sponsorship of the groups of trusts of the six leading sponsors, which reflect the trend of the fixed trust movement in this country.

A. Trusts Sponsored by Distributors Group, Incorporated ⁵¹

On March 21, 1938, Distributors Group, Incorporated assigned, pursuant to applicable provisions of the various trust agreements, all its rights, duties, and obligations under the trust agreements creating North American Trust Shares, 1953, North American Trust Shares, 1955, North American Trust Shares, 1956, North American Trust Shares, 1958, and Cumulative Trust Shares to North American Depositor Corporation, a subsidiary corporation. North American Depositor Corporation had been incorporated as North American Collateral Corporation under the laws of New York on November 2, 1929, and apparently had been inactive until its succession as a depositor of these fixed trusts.

On May 11, 1938, Distributors Group, Incorporated, sold all its interest in North American Depositor Corporation to Lord, Abbett & Company, Inc., for \$36,500 cash. Lord, Abbett & Company, Inc. thus became the sole sponsor of the five fixed trusts and Distributors Group, Incorporated ceased to be the sponsor and depositor of this type of trust. In the memorandum of sale, Distributors Group, Incorporated agreed that for a period of three years from the date of the agreement it would not directly or indirectly associate itself with (that is, sponsor) any trusts similar to those transferred; that it would not directly or indirectly make any offer in the nature of an exchange offer to the holders of certificates of the trusts transferred, except where Distributors Group, Incorporated might be "approached for advice or recommendation by an investor or dealer."

Upon the transfer of the five trusts to Lord, Abbett & Company, Inc., John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, resigned all his connections therewith and became president of North American Depositor Corporation and vice president of and general counsel for Lord, Abbett & Company, Inc.

The agreement of sale recited that, as of April 30, 1938, shares were outstanding with liquidating values as follows:

⁵⁰ This date was the end of the period for which information was requested in the questionnaire and form for summary statement for fixed and semifixed trusts.

⁵¹ The discussion under this caption is based on material found in the reply to the Commission's questionnaire for North American Trust Shares, 1953 (Supplementary information).

Name of trust	Shares out- standing	Aggregate liquidating value ^a
North American Trust Shares, 1953.....	1, 175, 500	\$2, 198, 537. 65
Cumulative Trust Shares.....	1, 081, 000	4, 191, 145. 10
North American Trust Shares, 1955.....	5, 166, 000	11, 515, 014. 00
North American Trust Shares, 1956.....	5, 591, 000	12, 149, 243. 00
North American Trust Shares, 1958.....	81, 000	168, 318. 00
		30, 222, 257. 75

^a The investing public had paid \$257,909,239 for its participation in the five fixed trusts. (See *supra*, p. 31, this chapter.) At Apr. 30, 1938, the liquidating value of the outstanding shares of these trusts amounted to only \$30,222,258. This difference of \$227,686,981 may be ascribed to the effects of redemptions, either directly or as a result of exchange offers, and depreciation of securities in the portfolios.

The significance of these transfers ⁵² is indicated by the fact that Lord, Abnett & Company, Inc., within one week after the transfer to it of the sponsorship of these trusts and the election of Mr. Myers as its vice president and general counsel, made offers to exchange the shares of these trusts into shares of American Business Shares, Inc., an open-end management investment company sponsored by Lord, Abnett & Company, Inc. ⁵³

With the acquisition of these fixed trusts Lord, Abnett & Company, Inc. became the sponsor of eleven fixed trusts and two open-end management investment companies. ⁵⁴

Of these thirteen trusts and companies Lord, Abnett & Company, Inc., had originated only one, American Business Shares, Inc., having acquired the fixed trusts after their organization, primarily for the purpose of trading out certificate holders into shares of American Business Shares, Inc.

On December 31, 1938 Lord, Abnett & Company, Inc. sold its interest in Super-Corporations of America Depositors, Inc. to American Trustee Share Corporation, in turn controlled by Massachusetts Distributors, Inc. ⁵⁵ Lord, Abnett & Company, Inc. thus relinquished its sponsorship of the six series of Super-Corporations of America Trust

⁵² See Ch. XII, Exchanges of Trust Shares, *infra*.

⁵³ *Ibid*.

⁵⁴ These fixed trusts and management investment companies were:

Fixed trusts

Super-Corporations of America Trust Shares, Series A.
 Super-Corporations of America Trust Shares, Series B.
 Super-Corporations of America Trust Shares, Series C.
 Super-Corporations of America Trust Shares, Series D.
 Super-Corporations of America Trust Shares, Series AA.
 Super-Corporations of America Trust Shares, Series BB.
 North American Trust Shares, 1953.
 North American Trust Shares, 1955.
 North American Trust Shares, 1956.
 North American Trust Shares, 1958.
 Cumulative Trust Shares.

Open-end management investment companies

Affiliated Fund, Inc.
 American Business Shares, Inc.

⁵⁵ Derived from supplementary information supplied the Commission for Super-Corporations of America Trust Shares.

Shares to a former sponsor, Massachusetts Distributors, Inc. presumably after exhausting the possibilities of exchanging the shareholders of these trusts into other companies.⁵⁶

B. Trusts Sponsored by Transcontinent Shares Corporation

In 1936 Bank and Insurance Shares, Inc., depositor and sponsor for Deposited Bank Shares, Series B-1, Deposited Bank Shares, Series N. Y., Deposited Bank Shares, N. Y., Series A, Deposited Insurance Shares, Series A, and Deposited Insurance Shares, Series B, and the sponsor of several installment investment plans, caused its corporate name to be changed to Transcontinent Shares Corporation.⁵⁷ On October 29, 1937, F. D. Crosby, president and sponsor of T. I. S. Management Corporation,⁵⁸ successor depositor for Trusteed Industry Shares,⁵⁹ acquired over 90% of the common (voting) stock of Transcontinent Shares Corporation. In addition to the fixed trusts and special plans, the new sponsors also acquired Fiscal Fund, Inc., an open-end management investment company sponsored by Transcontinent Shares Corporation in 1936.⁶⁰

⁵⁶ See Ch. XII, Exchanges of Trust Shares, *infra*.

⁵⁷ The public examination by the Commission of this company and the trusts it sponsored was held under that name (Public Examination, Transcontinent Shares Corporation, at 13696-7).

⁵⁸ Moody's Manual of Investments, Banks, etc., 1938, p. 416.

⁵⁹ See Chapter IV, The Depositor, *infra*.

⁶⁰ Moody's Manual of Investments, Banks, etc., 1938, p. 416.

Chapter IV

THE DEPOSITOR

The depositor is the agency which creates the fixed trust by depositing the underlying securities or property with a trustee.¹ The depositor was invariably corporate in form—usually a closely held private corporation created and controlled by the sponsor of the trust. The depositor was generally merely the instrument or conduit through which the sponsor created and deposited the units of underlying property of the trust.

As will be indicated in greater detail, the depositor was one of the weakest elements in the organization of the fixed trust. (1) The depositor frequently lacked financial responsibility and those for some of the largest fixed trusts of which millions of dollars of trust certificates were sold to the public, had practically no assets. (2) The depositor, being corporate in form, insulated the promoters against personal liability for acts in connection with the creation or distribution of the trust certificates. In addition, the depositor in almost every case exculpated itself from all legal liability except for acts involving wilful default or gross negligence. (3) By means of a corporate depositor, the promoters were able to assign their interest in the depositor, generally without the consent of the trustee or certificate holders, merely by transferring the capital stock of the depositor corporation. Repeated transfers of control of the depositor corporation were not unusual and were usually accompanied by a diminution or depletion of the assets of the depositor, if any, with each successive change in control.

When association with a trust was no longer profitable, the sponsor, because he employed the device of the depositor corporation, was able without legal liability either to abandon the trust and thereby make it a so-called "orphan" trust or to sell his interest in the depositor to a new promoter who might either continue the trust or switch the certificate holder into shares of another investment trust or company.²

I. THE FUNCTIONS OF THE DEPOSITOR

The functions of depositors may be classified into two categories—those functions which the depositor performs pursuant to the terms of the trust agreement and the functions performed by virtue of arrangements independent of the trust agreement. The most important and perhaps the best example of the latter type of function is that of principal distributor of the certificates for the trust

¹ Appendix B contains a list of depositors of fixed and semifixed trusts.

² See Ch. XII, Exchanges of Trust Shares, *infra*.

shares, which is often assumed by the depositor. In view of the fact, however, that those activities, as principal distributor and the like, which are not connected with functions under the trust agreements are treated elsewhere in this report,³ this section will deal only with the duties and functions of the depositor as specifically contemplated by the trust agreement.

The duties of the depositor, as provided in the various trust agreements, are primarily those of a settlor of a trust. In most fixed trusts, however, the depositor is also in charge of management of the trust so that the "trustee" acts, in general, merely in the capacity of a custodian, bookkeeper and mechanical agent.⁴ Typical of the functions and duties of the depositor are the following:⁵

- (1) To deposit with the trustee units of underlying securities and property.
- (2) To determine whether a distribution shall be allocated to principal or income.
- (3) To specify the time for sale of stock, rights, and other property as prescribed in the trust agreement.
- (4) To direct the sale of all or any part of the shares of the underlying companies in its sole discretion.
- (5) To reinvest moneys on hand in the capital account in stocks of the underlying companies, in call loans or bonds and notes of the United States Government.
- (6) To vote the underlying stocks.
- (7) To terminate the trust agreement under certain conditions.
- (8) To extend the life of the trust agreement under certain conditions.
- (9) To appoint a successor trustee in the event of the resignation, removal or incapacity of the trustee. If the depositor fails to act within 30 days after a vacancy occurs then a majority of the certificate holders may appoint a successor trustee. If no successor trustee is appointed within 90 days after the vacancy occurs then the trust agreement shall terminate.

Power and privileges specifically granted to the depositor are :

- (1) The depositor may assign all rights to another company or person with the approval of the trustee.
- (2) The depositor or any officer thereof or any affiliated company may deal in trust certificates.
- (3) The depositor may call a meeting of certificate holders to ascertain their views with respect to any action or thing done or proposed to be done or upon any other question. However, the depositor or trustee is not bound by the certificate holders' recommendations.
- (4) The depositor and the trustee with the consent of not less than a majority of the certificate holders may amend the trust agreement except as to certain basic aspects of the trust. Without consent of the certificate holders, the trustee and depositor may make certain changes in the trust of a minor nature.

³ See Ch. IX, Distribution of Fixed Trust Shares, p. 146, *infra*.

⁴ See discussion of the duties of the trustee in Ch. V, The Trustee, *infra*.

⁵ See trust agreement creating United States Electric Light & Power Shares, Inc., Trust Certificates, Series B (Public Examination, Calvin Bullock Trusts, Commission's Exhibit No. 379).

Thus, practically every function necessary and usual in the operation of fixed trusts was performed by the depositor corporation, except the mechanical function of safekeeping the underlying securities and property, keeping the accounts of the trust, disbursing the various distributions and delivering the underlying securities and cash upon purchase as provided in the agreements, and the final liquidation of the trust upon the expiration of the specified period.⁶

II. THE NATURE OF THE DEPOSITOR

A. Form and State of Organization

All the depositors examined in connection with the study of fixed and semifixed investment trusts were corporate in form. This form was patently chosen to insulate the promoters, sponsors, and distributors from personal liability in connection with their activities with fixed trusts. As was testified by Herbert I. Shaw, vice president and director of American Trustee Share Corporation, sponsor of the various series of Diversified Trustee Shares:⁷

A. We believed that a corporate form is better than any other form, for the reason that it limits the liability to any of the officers and directors, and most officers and directors are men of means, and it also makes provision for the continuing of the corporation in case any of the originators resigned from the corporation, or die, or anything of that nature, and more or less it assures the continuing operation of the corporation for the benefit of the stockholders.

Of 28 depositors for 56 fixed trusts with assets of \$500,000 or more, 13 were incorporated in New York, 7 in Delaware, 2 in Pennsylvania, and 1 each in Colorado, Indiana, Maryland, Missouri, New Jersey, and Ohio.

B. Capitalization and Assets of Depositors

The capitalization of depositor corporations, both from the standpoint of the amount of capital authorized and amount of securities issued, reflected the manner in which the business of a particular trust was conducted.⁸

1. CALVIN BULLOCK TRUSTS

Some depositors, such as Nation-Wide Securities Company and United States Electric Light & Power Shares, Inc., the depositors for the trusts sponsored by Calvin Bullock, had only nominal assets. These depositors had no full-time employees and were merely legal

⁶ Public Examination, Calvin Bullock Trusts, at 3797-9; Public Examination, Ross Beason & Co., Inc. Group, at 10989.

⁷ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7443-4.

⁸ Appendix L contains a table of comparative data for 28 depositors of fixed trusts for which answers to the Commission's questionnaire were filed.

entities or corporate shells created by the sponsor.⁹ Calvin Bullock really discharged the various functions of fixed trusts but did so through the instrumentality of the depositor corporation.¹⁰

As a consequence, these depositors were practically judgment proof, and any claims or judgments against these depositors for mismanagement or other improprieties, might be unenforceable. G. P. Parkerson, treasurer of Nation-Wide Securities Company, controlled by Calvin Bullock, testifying with reference to this depositor, stated: ¹¹

Q. Now in your case, however, your depository corporation, Nation-Wide A, has practically no assets of its own, does it?

A. Yes.

Q. About \$100?

A. They are very nominal.

Alfred A. Jaretzki, Jr., of the law firm of Sullivan & Cromwell, of New York City, counsel for Calvin Bullock, at the hearing on the trusts sponsored by Calvin Bullock, testified: ¹²

Q. Now, can you imagine any cases in which the depositor corporation could be negligent and cause a loss to the trust?

A. Yes. If the depositor failed to properly exercise its power of supervision.

* * * * *

Q. Now, against whom would the certificate holder have a remedy in such a case?

A. Well, obviously in the first instance it would have a remedy against the depositor corporation.

⁹ The following balance sheet and profit-and-loss statement of United States Electric Light & Power Shares, Inc., is typical of the depositor with nominal assets. (Reply to the Commission's questionnaire for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A [Exhibit 15-1 and 15-2].)

	Dec. 31		
	Note A	Note B	1935
ASSETS			
Cash.....	\$696.29	\$695.27	\$676.27
Organization expense.....	303.71	304.73	323.73
LIABILITIES			
	1,000.00	1,000.00	1,000.00
Capital stock issued and outstanding—10 shares of no par value.....	1,000.00	1,000.00	1,000.00

NOTE A.—This balance is for the following dates: Dec. 31, 1927; Dec. 31, 1928; Dec. 31, 1929; Dec. 31, 1930; Dec. 31, 1931; Dec. 31, 1932.

NOTE B.—This balance sheet is for Dec. 31, 1933 and 1934.

Profit-and-loss account.—During the period from date of incorporation, Apr. 21, 1927, to Dec. 31, 1935, the depositor had no operations resulting in income. The expenses that were incurred were charged to organization expense.

¹⁰ Hugh Bullock of Calvin Bullock, a joint stock association, testified as follows (Public Examination, Calvin Bullock Trusts, at 3797-9):

A. * * * It so happens that people in the firm of Calvin Bullock in most respects corresponded to the officers, et cetera, of the depositor.

Q. Yes. So that the same person held both offices?

A. That is quite correct.

¹¹ Public Examination, Calvin Bullock Trusts, at 3784.

¹² Id., at 3832-3833.

Q. Against the depositor corporation?

A. Yes.

Q. And the depositor corporation has no assets?

A. Yes.

Mr. Jaretzki further testified:¹³

Q. So that the shareholder would have no remedy, first, because the depositor corporation has no assets, and secondly, because it is not liable for its own negligence.

A. Yes; I will have to qualify what I said before, [namely] that the depositor is only liable for lack of good faith * * *.

2. ROSS BEASON & CO., INC. GROUP

A second type of depositor, represented by American Depositor Corporation, Super-Corporations of America Depositors, Inc., and America Trustee Share Corporation, limited its activities to the functions called for by the fixed trust agreement or by agreements for distribution of their trust certificates. Their assets, therefore, reflected from time to time the business done and the profits realized by these depositors.

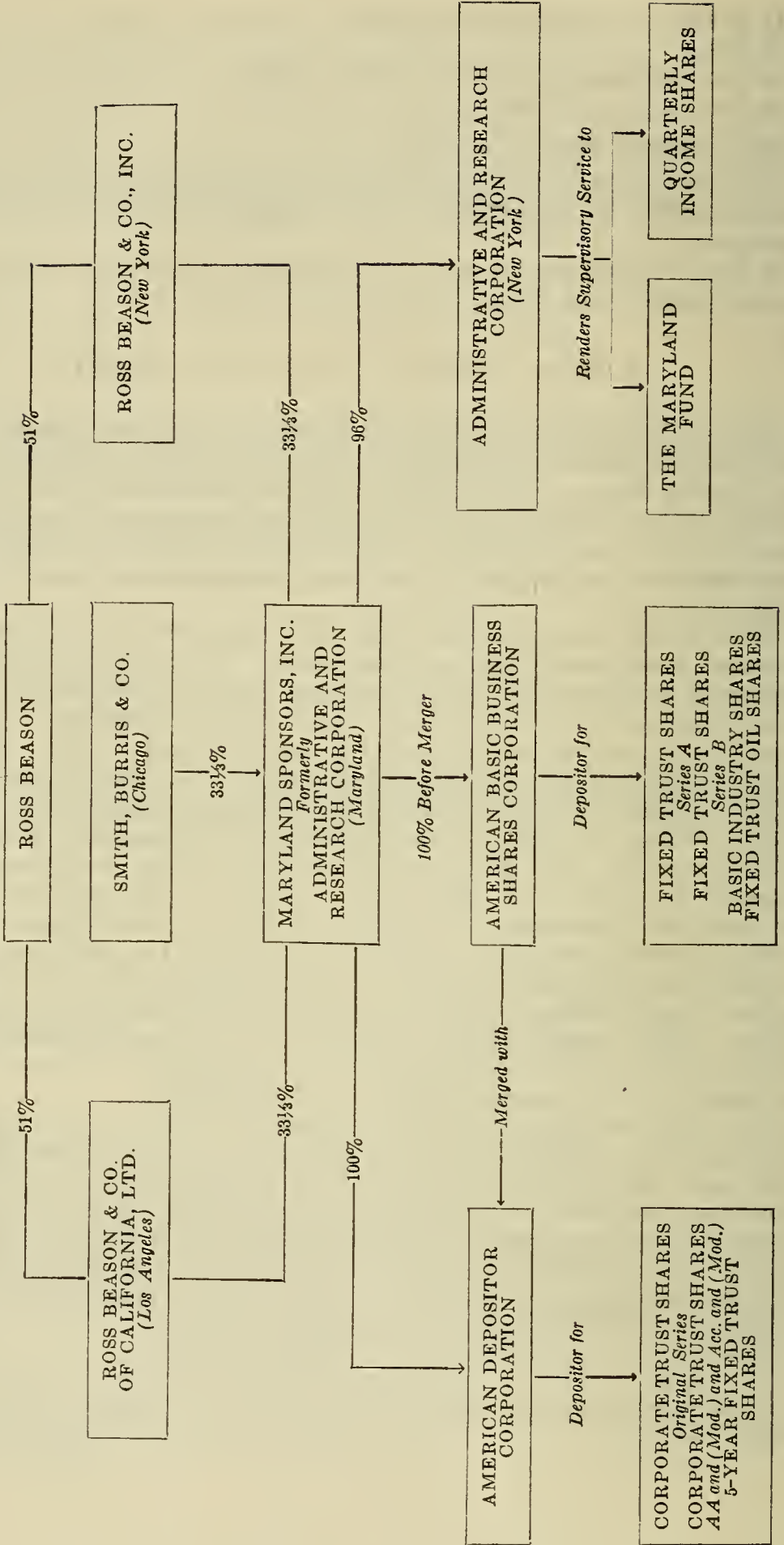
The use of the corporate form for depositor corporations often resulted in extremely intricate structures. For example, in the Ross Beason & Co., Inc. Group of trusts, three layers of corporations were interposed between the trusts and the dominant promoter. American Basic-Business Shares Corporation, incorporated in New York on July 12, 1927, was the original depositor of four early trusts of this group. American Depositor Corporation was incorporated in New York on May 25, 1929, to act as depositor of four other fixed trusts. Administrative and Research Corporation (Maryland) was incorporated on October 24, 1929, and in January 1930 acquired control of these two depositors. On July 29, 1932, these two depositors were merged under the name of American Depositor Corporation. A new corporation, Administrative and Research Corporation, a New York corporation (distinct from the one with the same name mentioned above, whose name was later changed to Maryland Sponsors, Inc.), was organized and on September 1, 1934, entered into management agreements with American Depositor Corporation.

In 1936 the sponsors also instituted a plan of reorganization whereby Ross Beason & Co. of California, Ltd. and Ross Beason & Co., Inc. (New York), withdrew from all distribution, wholesale or otherwise, of investment trust shares and Smith, Burris & Company became the sole national wholesale distributor of trust shares. Ross Beason was thereafter to limit his activities to the management field.¹⁴ The following chart (Chart IV) shows the relationship of the various companies in the Ross Beason & Co., Inc. Group.

¹³ Id., at 3835.

¹⁴ Public Examination, Ross Beason & Co., Inc. Group, at 16974-7 and Commission's Exhibit No. 1078.

CHART IV
Organization of Ross Beason & Co., Inc., Group



3. DISTRIBUTORS GROUP, INCORPORATED

A third type of depositor was a sizable corporation with substantial capital stock which carried on, in addition to its activities as depositor for fixed trusts, a substantial business of trading in and underwriting and distributing securities.

Distributors Group, Incorporated, illustrates this type of depositor. In May 1930, after purchasing the interest of Thomas F. Lee & Company, Incorporated, successor to Lee, Stewart & Co., Incorporated, original sponsors of North American Trust Shares, 1953, Distributors Group, Incorporated, became a depositor with substantial assets and entered the general investment business. As at December 31, 1935, this corporation which was the depositor for North American Trust Shares, 1953, North American Trust Shares, 1955, North American Trust Shares, 1956, North American Trust Shares, 1958, and subsequently of Cumulative Trust Shares, had gross assets of \$2,694,226.¹⁵

Distributors Group, Incorporated, was organized under the laws of Delaware on December 24, 1928,¹⁶ with an authorized capitalization of 20,000 shares of no par value capital stock. Five hundred shares at \$10 per share were issued to each of the original stockholders, who each also received a three-year option to purchase 2,000 additional shares at \$10 per share. This original transaction accounted for 10,000 capital shares. Lee, Stewart & Co., Incorporated, as a part of a distribution contract for North American Trust Shares, 1953, agreed to purchase 10 shares of the capital stock of Distributors Group, Incorporated, for each 2,000 North American Trust Shares sold by Lee, Stewart & Co., Incorporated, at a price for each 10 shares equal to $\frac{1}{2}\%$ of the purchase price of the unit of 2,000 trust shares but not more than \$10 per capital share of Distributors Group, Incorporated. This capital stock of Distributors Group, Incorporated, was given by Lee, Stewart & Co., Incorporated, as extra compensation to retail dealers who sold the trust shares to the public. All of the proceeds of sale of this stock went into the capital account of Distributors Group, Incorporated, and the entire 20,000 shares were taken up and paid for under the above plan by July 1929.¹⁷

In July 1929 the number of shares of capital stock of Distributors Group, Incorporated was increased to 100,000 shares without par value. The outstanding 20,000 shares were split three for one so that 60,000 shares were issued to the holders of the original 20,000 shares, and each holder of the original 20,000 shares was given the right to subscribe for two or more shares for each share held, at \$10 per share. The stockholders were requested not to exercise their rights, and practically none did so. The 40,000 shares of common stock thus released were made available to Lee, Stewart & Co., Incorporated, on the same basis described above, 10 shares for each 2,000 North American Trust Shares sold, the price of the former to be $\frac{1}{2}\%$ of the price

¹⁵ Appendix M contains a copy of a balance sheet of Distributors Group, Incorporated, as of December 31, 1935.

¹⁶ Public Examination, The Equity Corporation, at 10147 et seq. Distributors Group, Incorporated, was incorporated as Founders Group, Incorporated. Its name was changed by an amendment to its charter on January 18, 1929 (see reply to the Commission's questionnaire for North American Trust Shares, 1953).

¹⁷ Reply to the Commission's questionnaire for North American Trust Shares, 1953. See also Public Examination, The Equity Corporation, at 10147-66.

of a unit of trust shares, but not more than \$10 per share. These shares were to be distributed as additional compensation to dealers as theretofore and were practically all issued by April 1930.¹⁸

In April 1930 the capital stock of the company was further increased to 300,000 shares without par value. The outstanding stock was split two for one, thus accounting for 200,000 shares, and each stockholder was given the right to purchase one additional share at \$5 per share for each share held, and was requested not to exercise the right. Few stockholders exercised their rights. The stock thus released was made available to Thomas F. Lee & Company, Incorporated, successor to Lee, Stewart & Co., Incorporated, on terms similar to those described above.¹⁹

On May 30, 1930, the distribution agreement with Thomas F. Lee & Company, Incorporated, was canceled, but a considerable amount of capital stock of Distributors Group, Incorporated, was still unissued. In May 1930, in order to finance the acquisition of the business of Thomas F. Lee & Company, Incorporated, successor to Lee, Stewart & Co., Incorporated, Distributors Group, Incorporated, offered its stockholders the right to purchase 50,000 shares of its newly issued capital stock at \$8 per share pro rata to their holdings.²⁰ This offering was underwritten by West and Company, Philadelphia, Pennsylvania, Central-Illinois Company, Chicago, Illinois, and Interstate Equities Corporation (a company controlled by Wallace Groves, a promoter),²¹ which group took up and paid for all unsubscribed stock at this price, receiving a fee of 50 cents per share for so doing. This was the first step by which Distributors Group, Incorporated, ultimately became embroiled in the intricate system of companies dominated by The Equity Corporation. This stock was retained by the members of the group as an investment, and was not publicly offered.²²

Distributors Group, Incorporated, after acquiring the business of Lee, Stewart & Co., Incorporated, continued to issue its own capital stock to dealers in the same manner that Lee, Stewart & Co., Incorporated had theretofore distributed the capital stock. The remaining unissued capital stock, as well as some stock repurchased by the corporation in the open market, was distributed in that manner.²³

In August 1931, an additional 20,000 shares of no par value capital stock of Distributors Group, Incorporated was authorized, bringing the total authorized capital stock to 320,000 shares, and the stockholders were given the right to subscribe to one additional share at

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, stated that the interest of the sponsors, Lee, Stewart & Co., Incorporated (from March 1930, Thomas F. Lee & Company, Incorporated), was purchased by the depositor as of May 31, 1930, for \$1,000,000. (Public Examination, Distributors Group, Incorporated, at 10447.) Up to this time most of the earnings of the depositor and all of the profits on the sale of trust shares through dealers was being paid to Lee, Stewart & Co., Incorporated, and its successor. (Ibid.; see also Public Examination, The Equity Corporation, at 10158.)

²¹ Public Examination, The Equity Corporation, at 10178. For an account of further activities of Wallace Groves see Report on Investment Trusts and Investment Companies, Pt. Three, Ch. II (House Doc. No. 279, 76th Cong.).

²² Reply to the Commission's questionnaire for North American Trust Shares, 1953.

²³ Ibid.

\$4 for each 15 shares held, with the request that the right be not exercised. Of the stock so freed, 16,667 shares were issued to Bancamerica-Blair Corporation for its half interest in Cumulative Shares Corporation, depositor for Cumulative Trust Shares, which had been formed jointly by Bancamerica-Blair Corporation and Distributors Group, Incorporated in 1930. This program was approved by stockholders.²⁴

III. DECREASE OR ELIMINATION OF ASSETS OF THE DEPOSITOR

The assets of depositors were often decreased, particularly upon successive transfers of control, until the depositor corporation became a mere shell. The experience undergone by the depositor, Super-Corporations of America Depositors, Inc., organized in 1930 by S. W. Straus & Co., Incorporated, is an illustration of such a change.²⁵ As of December 31, 1932, when the 5,000 issued shares of the depositor corporation were owned by S. W. Straus & Co., Incorporated (Delaware), the assets of the depositor were \$628,750.²⁶ Apparently dividends of approximately \$300,000 were declared and paid while the stock was owned by S. W. Straus & Co., Incorporated. On March 8, 1933, Manufacturers Trust Company purchased the outstanding shares at a public sale held in connection with the foreclosure of a lien on the capital stock of the depositor which had been pledged by S. W. Straus & Co., Incorporated (Illinois).²⁷ On August 9, 1933, when Manufacturers Trust Company or its nominee, Downtown Securities Corporation, sold the outstanding stock of the depositor to American Trustee Share Corporation (then owned by Brown Bros., Harriman & Co., Incorporated), the assets of the depositor had decreased to \$122,317.²⁸ On October 25, 1935, when the stock of the depositor was sold to Lord, Abbett & Company, Inc., the assets of the depositor had decreased to \$37,278.²⁹ Lord, Abbett & Company, Inc., in an offer of exchange of Super-Corporations of America Trust Shares for American Business Shares which it was sponsoring, urged that "*the affairs of this Corporation should be terminated as quickly as possible.*"³⁰

²⁴ Public Examination, The Equity Corporation, at 10147-66. See also reply to the Commission's questionnaire for North American Trust Shares, 1953.

²⁵ The trusts created by this depositor were: Super-Corporations of America Trust Shares, Series A, Super-Corporations of America Trust Shares, Series B, Super-Corporations of America Trust Shares, Series C, Super-Corporations of America Trust Shares, Series D, Super-Corporations of America Trust Shares, Series AA, and Super-Corporations of America Trust Shares, Series BB.

²⁶ Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, and supplementary information supplied the Commission.

²⁷ Ibid.

²⁸ Derived from supplementary information supplied the Commission for Diversified Trustee Shares, Original Series. The balance sheet of Super-Corporations of America Depositors, Inc., as of July 31, 1933, appended to the contract of sale between Manufacturers Trust Company and American Trustee Share Corporation dated August 8, 1933, shows total assets of the depositor corporation of \$198,064, but a pro forma balance sheet of the depositor, also appended to the contract of sale, indicates adjustments (presumably to the closing date) in total assets to \$122,317. (Ibid.)

²⁹ Ibid.

³⁰ Italics in letter of November 6, 1935, sent by depositor to holders of Super-Corporations of America Trust Shares, Series A. (See the reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, Exhibit F.)

The following table shows the progressive decrease in the assets of the depositor, Super-Corporations of America Depositors, Inc.: ³¹

Date	Total assets at end of year	Net income (loss)	Dividends paid each year
To Dec. 31, 1930.....	\$686, 004. 55	\$617, 720. 34	-----
Dec. 31, 1931.....	612, 361. 65	307, 283. 98	\$375, 000. 00
Dec. 31, 1932.....	628, 750. 85	205, 303. 59	200, 000. 00
Dec. 31, 1933.....	127, 933. 48	(74, 100. 04)	473, 736. 05
Dec. 31, 1934.....	51, 566. 36	4, 493. 11	9, 911. 51
To Oct. 31, 1935.....	53, 617. 27	(61. 12)	-----
Total.....	-----	-----	1, 058, 647. 56

IV. NUMEROUS ASSIGNMENTS OF OWNERSHIP OF DEPOSITORS

A. Distributors Group, Incorporated

The early changes in the capitalization of Distributors Group, Incorporated, have been described in a previous section. It will also be recalled that by the end of 1932 distribution of the fixed trusts of Distributors Group, Incorporated—North American Trust Shares, 1953, North American Trust Shares, 1955, North American Trust Shares 1956 and Cumulative Trust Shares—had practically ceased. At this time, although Distributors Group, Incorporated, was apparently testing the public attitude toward fixed trusts by preparing to bring out North American Trust Shares 1958 (of which there were ultimately only \$950,540 of shares sold), most sponsors were turning to the open-end investment company, and preparing to offer the securities of such companies in exchange for the fixed trust shares. Therefore, at this time the fixed trusts of Distributors Group, Incorporated, represented vehicles from which the principal profits had been realized and which carried certain continuing liabilities and obligations of the sponsors.

During the autumn of 1932 Wallace Groves ³² and Chase Donaldson, both of New York and both promoters of investment companies, had been carrying on negotiations which ultimately resulted in the formation of The Equity Corporation on December 7, 1932.³³ Mr. Groves had represented that he had a substantial stock interest in Distributors Group, Incorporated, through Interstate Equities Corporation, which he controlled, and that he believed that Distributors Group, Incorporated, could be used in connection with the proposed company which was to become The Equity Corporation.³⁴ As a matter of fact, Interstate Equities Corporation had only 15,000 shares of

³¹ Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, Item 15.

³² See Report on Investment Trusts and Investment Companies, Pt. Three, Ch. II (House Doc. No. 279, 76th Cong.).

³³ Public Examination, The Equity Corporation, at 10168.

³⁴ Id., at 10175.

the stock, a relatively small block.³⁵ The result of the negotiations was, however, that in November 1932, Allied General Corporation, controlled by Chase Donaldson, entered into an agreement with Distributors Group, Incorporated, under which a new corporation, Allied-Distributors, Inc., was formed.³⁶ At about this time The Equity Corporation indirectly owned 37% of the outstanding stock of Distributors Group, Incorporated. Allied-Distributors, Inc., had an authorized capital of 1,000 shares of common stock. Under the agreement, Allied General Corporation agreed to sell its unlisted trading business to Allied-Distributors, Inc., for 500 of the 1,000 shares of stock of Allied-Distributors, Inc. Distributors Group, Incorporated, was to purchase for \$50,000 the remaining 500 shares of stock of Allied-Distributors, Inc., and advance an amount up to \$200,000 as working capital.³⁷ Allied General Corporation and Distributors Group, Incorporated, then placed all the stock of Allied-Distributors, Inc., in a voting trust, with Kenneth Gaston, John Sherman Myers, and Chase Donaldson as voting trustees.³⁸

On January 31, 1933, Allied General Corporation entered into an agreement with Distributors Group, Incorporated on the following terms: Distributors Group, Incorporated was to buy from Allied General Corporation the latter's wholesale security business and its holdings in Allied-Distributors, Inc., for 20,000 shares of stock of Distributors Group, Incorporated. The latter corporation was to assume the obligations of Allied General Corporation in connection with the wholesale securities business.³⁹ This agreement was made effective on February 15, 1933. Chase Donaldson was made president and director of Distributors Group, Incorporated, and by formal amendment to the charter of the company, its no-par stock was changed to stock of a par value of \$1 per share, reducing the stated value at that time of \$3.97 per share to \$1.⁴⁰ In February 1934 the par value of the stock was reduced to 10¢ per share and an issue of 2,000 shares of \$6 preferred stock of a par value of \$5 was authorized.⁴¹

On March 28, 1934, The Equity Corporation, through its subsidiaries, Interstate Equities Corporation and Allied General Corporation, sold to Enyomel Corporation, another corporation in The Equity Corporation group, a total of 139,000 shares, representing 44% of the stock of Distributors Group, Incorporated. The consideration for the transfer of this stock was an agreement to pay \$2 for every share transferred plus "an amount equal to 90 percent of all cash and/or assets received by the Enyomel Corporation on account of such stock by way of any distribution of assets, by dividends or otherwise, by Distributors Group, Inc., after deducting therefrom taxes, expenses, and \$2 per share and interest on so much of said \$2 per share as shall

³⁵ Id., at 10179.

³⁶ Id., at 10187 et seq., and Commission's Exhibits Nos. 957 and 958.

³⁷ Id., at 10189-90 and Commission's Exhibit No. 957.

³⁸ Id., at 10191.

³⁹ Id., at 10191-3 and Commission's Exhibit No. 959.

⁴⁰ Reply to the Commission's questionnaire for North American Trust Shares, 1953. See also Public Examination, The Equity Corporation, at 10203-5.

⁴¹ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 11 (a).

not have been received from time to time from Distributors Group, Inc., by way of distribution or otherwise.”⁴²

Attached to the agreement of March 28, 1934, for the sale of the stock of Distributors Group, Incorporated, was a plan of reorganization of the latter corporation which provided for the formation of Group Assets, Inc., which was to take over the assets and liabilities of Distributors Group, Incorporated, in consideration of the issuance of the stock of Group Assets, Inc., to Distributors Group, Incorporated, on a share for share basis. This stock was to be transferred to stockholders of Distributors Group, Incorporated, on a share for share basis pro rata with the holdings of such stockholders in the company and Group Assets, Inc., was to contribute \$500,000 to Distributors Group, Incorporated, as follows: Group Assets, Inc., (a) was to buy 2,000 shares of Distributors Group, Incorporated, preferred stock at \$100 a share or a total of \$200,000 cash, and (b) was to lend \$300,000 to Distributors Group, Incorporated.⁴³ Distributors Group, Incorporated, was thus left with no liabilities except for the loan, and with assets consisting of \$500,000 cash. Enyomel Corporation had 139,500 shares of Distributors Group, Incorporated stock and 139,500 shares of the stock of Group Assets, Inc.⁴⁴ On March 29, 1934 Enyomel Corporation assigned to United States Shares Corporation (Maryland) 139,500 shares of its Group Assets, Inc., stock for \$273,000 plus a claim for 90% of any proceeds of the liquidation of Distributors Group, Incorporated.⁴⁵ United States Shares Corporation (Maryland) in order to pay for this stock, borrowed \$260,000 from the First National Bank of Jersey City, New Jersey and pledged against this loan certain collateral,⁴⁶ 139,550 shares of stock of Group Assets, Inc., 180,000 shares of the common stock and 2,000 shares of preferred stock of The Equity Corporation, and 2,000 shares of stock of Consolidated Funds Corporation of Delaware. The stock thus hypothecated against this \$260,000 loan represented practically all the assets of United States Shares Corporation (Delaware) and its subsidiary, Atlantic & Pacific International Corporation. At this point United States Shares Corporation (Maryland) held 139,500 shares of common stock of Group Assets, Inc., for which United States Shares Corporation (Maryland) had paid approximately \$273,000. In June 1934 Enyomel Corporation sold its 139,500 shares of common stock of Distributors Group, Incorporated to Group Management, Ltd., for \$1,000 cash. Group Management, Ltd., was controlled by Chase Donaldson and his associates. Thus for \$1,000 Mr. Donaldson obtained 44% control of Distributors Group, Incorporated,⁴⁷ which had no liabilities except the \$300,000 promissory note payable to Group Assets, Inc. and had \$500,000 in assets, of which \$200,000 had been raised by the sale of its

⁴² See Registration Statement of The Equity Corporation under the Securities Act of 1933, File No. 2-684. See also Public Examination, The Equity Corporation, at 10212, 10228 et seq. and Commission's Exhibits Nos. 962 and 963.

⁴³ Public Examination, The Equity Corporation, at 10233 et seq.

⁴⁴ Ibid.

⁴⁵ Public Examination, The Equity Corporation, at 10257-8 and Commission's Exhibit No. 965.

⁴⁶ Id., at 10262-3 and Commission's Exhibit No. 967.

⁴⁷ Id., at 10238-9.

stock to Group Assets, Inc. Mr. Donaldson, president of Distributors Group, Incorporated, testified:⁴⁸

Q. So that the officers of Distributors Group formed a corporation known as Group Management [Ltd.], and it was this Group Management [Ltd.] which purchased 139,500 shares of Distributors Group stock, from Enyomel Corporation, for \$1,000, isn't that so?

A. Correct.

As of December 31, 1935, Group Management, Ltd., owned 66% of Distributors Group, Incorporated stock, including the 44% acquired from Enyomel Corporation.⁴⁹ The difference apparently was represented by stock acquired through open-market purchases or through exchanges.

On January 5, 1935, Group Assets, Inc., agreed to repurchase from the holders of its capital stock 50% of their holdings. Thereupon United States Shares Corporation (Maryland) sold to Group Assets, Inc., 50% of its holdings in the latter corporation's stock which it had purchased for approximately \$2 a share from Enyomel Corporation or acquired in the open market or by exchanges of The Equity Corporation stock.⁵⁰ On December 9, 1935, in order to get control of Group Assets, Inc., so as to make possible a merger of that corporation with Distributors Group, Incorporated, Distributors Group, Incorporated made an offer to United States Shares Corporation (Maryland) to purchase the balance of the latter corporation's holdings of stock of Group Assets, Inc., which consisted of 90,125 shares, for a total of \$155,916 in cash and 89,404 shares of the common stock of The Equity Corporation.⁵¹

Group Assets, Inc., and Distributors Group, Incorporated thereupon merged under the name of Distributors Group, Incorporated. Distributors Group, Incorporated, also in December 1935, repurchased the 2,000 shares of its own preferred stock which it had sold to Group Assets, Inc., and held them thereafter as treasury stock.⁵²

Thus a depositor for fixed trust evolved into a corporation conducting an extensive securities business and, in turn, became a pawn in the manipulations of investment trust promoters.⁵³

⁴⁸ Id., at 10239.

⁴⁹ Id., at 10265.

⁵⁰ Id., at 10266.

⁵¹ Ibid. and Commission's Exhibits Nos. 968 and 969.

⁵² Reply to the Commission's questionnaire for North American Trust Shares, 1953.

⁵³ The foregoing transactions were discussed in an opinion by this Commission in connection with a proceeding to determine whether a stop order should issue pursuant to Section 8 (d) of the Securities Act of 1933 suspending the effectiveness of a registration statement filed February 11, 1934 by The Equity Corporation, covering 10,000,000 shares of common stock of the par value of 10 cents per share and 350,000 shares of convertible preferred stock of a par value of \$1 per share. Since The Equity Corporation had amended the registration statement and corrected the deficiencies therein which were the basis of the stop order proceedings, the Commission exercised its discretion and dismissed the proceedings. (*In the matter of The Equity Corporation*, 2 S. E. C. 675, 681 (1937). See also Registration Statement, The Equity Corporation, Securities and Exchange Commission, File No. 2-684.)

A discussion of the same transactions will be found in this Commission's Report on the Study and Investigation of the Work, Activities, Personnel and Functions of Protective and Reorganization Committees, Part VII, at 199 et seq.

1. ATTEMPTS TO LIQUIDATE NORTH AMERICAN TRUST SHARES, 1953

One of the results of the shunting about of Distributors Group, Incorporated, was that efforts were made by successor sponsors to liquidate prematurely North American Trust Shares, 1953. In 1934 David M. Milton, president of Group Assets, Inc., which at that time controlled Distributors Group, Incorporated, and which had undertaken to pay the trustee's fees of North American Trust Shares, 1953, sought to have the trustee's fees reduced or the trust liquidated, although the purchasers of the trust certificates had paid for services of the trustee until 1953. Henry A. Theis, vice president of Guaranty Trust Company, New York, the trustee for North American Trust Shares, 1953, testified with regard to a certain letter of November 17, 1934,⁵⁴ from Group Assets, Inc., signed by Mr. Milton, recommending premature liquidation of the trust:⁵⁵

Q. And he wrote this letter, and this letter was in connection with your resigning, wasn't it, so that they could liquidate the trust?

A. In his conversation with me, he had said that he didn't think that the securities that were left were a properly balanced investment from a diversification point of view, and he suggested as one of the ways of eliminating their continuing liability for us to resign as trustee and terminate the trust.

I don't know that he put it on the basis of terminating his liability to pay fees or on the basis of this no longer being a properly diversified trust.

Q. Wasn't there a suggestion to you, though, that the trust should be liquidated?

A. That was—I don't know that it was in the form of a suggestion, but it was one of the ways out.

Q. One of the ways out, that was discussed by Mr. Milton, is that right?

A. Yes, sir.

Q. And he says that "On careful examination we have come to the conclusion with which you stated you agreed, that there was no future for this fund, and that it was merely a question of ultimate liquidation.

"I delivered to you a pamphlet, analyzing the fund, which clearly reveals that it no longer serves the purpose for which it was intended, and that the elimination clause has worked against the interests of the trust holders, due to its automatic operation. The result is that the fund is no longer a balanced investment fund."

That was all part of your discussion with him, is that right?

A. Except that he made an error in his statement that I agreed with him.

Q. That you agreed with him?

A. The only thing that I agreed with him on was that there was no opportunity for this fund to start growing again.

Q. And he suggested several alternatives of this situation—one was to have you resign, and appoint another trustee, in order to cheapen their fees? Is that right?

A. Yes.

Q. And another one was to have you resign and liquidate the trust; is that right?

A. Not resign and liquidate, but liquidate the trust.

⁵⁴ Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 987.

⁵⁵ Id., at 10412-4.

Q. And were any other alternatives considered?

A. Not that I recall, no, sir.

Q. What was your position in regard to resigning?

A. Our position was that we had owed an obligation to the trust shareholders, and we saw no reason why we should resign and leave them with a possible successor that they did not like as well as the Guaranty.

2. ACQUISITION BY LORD, ABBETT & COMPANY, INC.

On March 21, 1938, Distributors Group, Incorporated, which then was the sponsor and depositor of the fixed trusts, North American Trust Shares, 1953, North American Trust Shares, 1955, North American Trust Shares, 1956, North American Trust Shares, 1958, and subsequently of Cumulative Trust Shares,⁵⁶ assigned all its rights, obligations, and liabilities as depositor of these trusts to a subsidiary corporation, North American Depositor Corporation.⁵⁷ On May 11, 1938, Distributors Group, Incorporated sold its interest in North American Depositor Corporation to Lord, Abbett & Company, Inc., a firm which had previously purchased the sponsorship of the six series of Super-Corporations of America Trust Shares, fixed trusts, and of Affiliated Fund, Inc., an open-end management type investment company, and had organized American Business Shares, Inc., also an open-end management type investment company. John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, who had been most closely identified with that corporation's fixed trusts since May 1930, terminated his connection therewith and became vice president and general counsel of Lord, Abbett & Company, Inc., and president of North American Depositor Corporation.⁵⁸

Upon completion of the acquisition, the new sponsors, following the plan used in connection with Super-Corporations of America Trust Shares, commenced a program of exchange offers.⁵⁹ Following the acquisition, Lord, Abbett & Company, Inc., appeared as the sponsor of two open-end management type investment companies, one of which they had organized, and as purchasers of the sponsorship of 11 fixed trusts.

B. United States Shares Corporation

The history of United States Shares Corporation, which acted as depositor for 12 trusts from 1927 to 1930, illustrates abuses which may arise in connection with the transfers of a depositor corporation. This corporation was incorporated under the laws of New York on April 21, 1927, with an authorized capital stock of 350,000 shares of common stock of no par value and 2,000 shares of preferred stock of \$100 par value. Except for the fact that the stock was closely held,

⁵⁶ See Ch. III, Organization and Growth of Fixed Trusts, *supra*, for a list of trusts sponsored by Distributors Group, Incorporated, and for a discussion of the transfer.

⁵⁷ Derived from supplementary information supplied the Commission for North American Trust Shares, 1953. North American Depositor Corporation had been incorporated by the management of Distributors Group, Incorporated, under the laws of New York on November 2, 1929, as North American Collateral Corporation. (*Ibid.*)

⁵⁸ *Ibid.*

⁵⁹ See Ch. XII, Exchanges of Trust Shares, *infra*.

detailed information with respect to the amount of stock issued or as to the size of this depositor corporation was unavailable, primarily because of the numerous assignments of the rights of the depositor from one corporation to another.⁶⁰

On September 13, 1930, United States Shares Corporation (New York) sold to United States Shares Corporation (incorporated in Maryland on August 21, 1930) all its property, rights, assets, and privileges as a business and going concern, including goodwill and the right to use the name "United States Shares Corporation" in exchange for 164,000 shares of no par value common stock of the Maryland corporation. United States Shares Corporation (New York) changed its name to United Holding Corporation on September 13, 1930, and was dissolved on December 31, 1935.

On September 13, 1930, the successor corporation, United States Shares Corporation (Maryland), purchased from United States Shares Financial Holding Corporation, all its property, assets, rights, and goodwill in exchange for 266,000 shares of no par value common stock of the successor corporation. The successor corporation also controlled Atlantic and Pacific International Corporation.⁶¹ In May 1932 United States Shares Corporation (Maryland) conveyed the sponsorship of nine fixed trusts to North and South American Corporation.⁶² In 1933 North and South American Corporation sold the sponsorship of five of these nine fixed trusts to Investors Sponsor Corporation.⁶³

In 1935 Investors Sponsor Corporation sold the sponsorship of one of these five fixed trusts, United Oil Trust Shares, Series H, to Argosy Associates, Inc.⁶⁴

Thus, in the case of nine of these trusts the depositor had assigned its rights to a new corporation. In the case of five of the trusts the new depositor had again assigned its rights. For one of these trusts four depositors appear in the space of 6 years. Similar assignments appear in the case of the trustees. Ten of the original trustees assigned to successor trustees, and, in one case, the successor trustee reassigned to another successor.

Control of North and South American Corporation was acquired in March 1932 by Insurance Equities Corporation (a new corporation which was in receivership at December 31, 1933) from American Founders Corporation.⁶⁵

⁶⁰ Information on this corporation is derived from several sources, among which were Poor's Fiscal Volumes, Moody's Manual of Investments, and Keane's Manual of Investment Trusts. The two United States Shares Corporations have been mentioned previously with the transfers of control of Distributors Group, Incorporated. (See this chapter, p. 51, *supra*.)

⁶¹ Poor's Fiscal Volume, 1932, p. 1647.

⁶² These 9 fixed trusts were: Common Stock Trust Shares, Series A; Common Stock Trust Shares, Series A-1; United Common Trust Shares, Series A-2; United Insurance Trust Shares; United Oil Trust Shares, Series H; United Fixed Shares; Bank Stock Trust Shares, Series C-1; Bank Stock Trust Shares, Series C-2; United New York Bank Trust Shares (formerly Bank Stock Trust Shares, Series C-3) (Poor's Fiscal Volume, 1936, p. 2021).

⁶³ These 5 fixed trusts were: Bank Stock Trust Shares, Series C-1; Bank Stock Trust Shares, Series C-2; United New York Bank Trust Shares; United Insurance Trust Shares; United Oil Trust Shares, Series H. (*Ibid.*) See Ch. XI, Realizing in Shares, pp. 206-7, *infra*, for further discussion of these trusts.

⁶⁴ Poor's Fiscal Volume, 1938, p. 2819.

⁶⁵ Poor's Fiscal Volume, 1935, p. 2864.

Information on these trusts, the total public participation in which may be estimated at between \$25,000,000 and \$30,000,000, was unavailable.⁶⁶ Statements that were filed with the Commission were filed pro forma either by successors of the depositors or successors of trustees and either contained no information or some information limited to the period that the respondent had some connection with a trust.

In the case of Common Stock Trust Shares, Series A, which was transferred to North and South American Corporation, the records of the depositor were not available. In the case of Bond Trust Shares, Series B, information was not available because the successor trustee had been the Bank of the United States, which was liquidated by the New York State Banking Department.

The certificate holders, too, seem to have been unable to secure satisfactory information concerning many of these trusts, according to letters of complaint filed with the Commission.⁶⁷

C. American Associated Dealers, Inc.

In general, where depositor corporations lacked substantial assets, the corporations were transferred more or less freely between sponsors of trusts. For example, the depositor American Associated Dealers, Incorporated, was formed on July 7, 1930, under the laws of New York by Walter E. Stewart, formerly of Lee, Stewart and Co., Incorporated (the original sponsors of North American Trust Shares, 1953).⁶⁸ This depositor or its successors brought out the following trusts: Trusteed American Bank Shares (Original Series), dated July 1, 1930;⁶⁹ Trusteed American Bank Shares, Series A, dated July 1, 1931; Trusteed American Bank Shares, Series B, dated April 1, 1933; Trusteed Industry Shares, dated April 1, 1933; and Trusteed Income Estates Certificates, an installment investment plan, dated April 1, 1933.⁷⁰ American Associated Dealers, Incorporated, also purchased the sponsorship of Public Service Trust Shares, Series A, dated January 1, 1930, from Security Distributors Corporation.⁷¹

American Associated Dealers, Incorporated underwent a number of changes. On March 30, 1933, a new corporation of the same name was organized under the laws of New Jersey,⁷² and on June 30, 1933, the New York corporation sold the sponsorship of all its fixed trusts to the New Jersey corporation.

On July 5, 1933, a third corporation of the same name was formed under the laws of Maryland and purchased the sponsorship of

⁶⁶ Public distribution of one of these series, United New York Bank Trust Shares, apparently had reached \$15,000,000 in 1929. (See Public Examination, The Equity Corporation, Commission's Exhibit No. 744, and pp. 64-5, *infra*, this chapter.)

⁶⁷ The following table (Table 7) shows the various changes in sponsorship of this group of trusts insofar as it was possible to trace them. (See table on next page.)

⁶⁸ Poor's Fiscal Volume, 1933, p. 1424.

⁶⁹ Trusteed American Bank Shares (Original Series) was terminated on April 26, 1934 (Moody's Manual of Investments, Banks, etc., 1936, p. 1845).

⁷⁰ From April 1, 1933, to August 10, 1935, both Trusteed American Bank Shares and Trusteed Industry Shares underlay the plan. Under the agreement creating the plans the purchaser had the right to elect which shares should underlie his particular certificate. Since August 10, 1935, Trusteed Industry Shares has been the only underlying security. (See the Reply to the Commission's questionnaire for Trusteed Income Estates Certificates.)

⁷¹ Poor's Fiscal Volume, 1932, p. 1370.

⁷² Registration Statement for Affiliated Management, Inc., filed with Securities and Exchange Commission, File 2-17-1, Items 2, 26 and Exhibit A.

TABLE 7.—Miscellaneous data for fixed and semifixed trusts originally sponsored by United States Shares Corporation

Name of trusts	Date of trust agreement	First successor depositor (1932)	Second and third successor depositors (1933)	Original trustee	Second and third successor trustees	Total estimated sales	Present status
1. Common Stock Trust Shares, Series A.	May 5, 1927	North and South American Corporation.		Chatham Phenix National Bank & Trust Co.	Guaranty Trust Co.	Unknown.	Terminated (1932).
2. Bond Trust Shares, Series B.	May 9, 1927			Central Mercantile Bank & Trust Co.	Bank of the United States.	do.	Terminated.
3. Bank Stock Trust Shares, Series C-1.	do.	North and South American Corporation.	Investors Sponsor Corporation.	Empire Trust Co.	Continental Bank & Trust Co.	\$855,238.	Do.
4. Bank Stock Trust Shares, Series C-2.	do.	do.	do.	do.	do.	\$697,455.	
5. Canadian Bank Stock Trust Shares, Series D.	Sept. 16, 1927			do.		Unknown.	Terminated.
6. Common Stock Trust Shares, Series A-1.	Jan. 10, 1928	North and South American Corporation.		do.	The Chase National Bank of the city of New York.	\$515,780.	
7. Bank Stock Trust Shares (changed to United New York Bank Trust Shares), Series C-3.	Feb. 27, 1928	do.	Investors Sponsor Corporation.	do.	Continental Bank & Trust Co.	\$11,800,000.	
8. Insurance Stock Trust Shares (changed to United Insurance Trust Shares), Series F.	Mar. 12, 1929	do.	do.	do.	do.	\$2,300,000.	
9. Koy Industry Trust Shares (changed to United Oil Trust Shares), Series H.	May 16, 1929	do.	do.	Bank of America N. A., succeeded by City Bank Farmers Trust Co.	Hudson Co. National Bank.	Unknown.	
10. United Trust Shares (changed to United Common Stock Shares), Series A-2.	Nov. 19, 1929	do.	Argosy Associates, Inc.	Bank of America N. A.	City Bank Farmers Trust Co.	\$186,780.	Terminated.
11. United Fixed Shares (changed to United Fixed Shares, Series Y.)	Mar. 1, 1930	do.	Frear & Co., Inc.	Empire Trust Co.	Continental Bank & Trust Co.	Unknown.	
12. Short Term Trust Shares, Series U.	Apr. 8, 1930			Bank of America N. A.	City Bank Farmers Trust Co.	do.	Terminated (1932).

Trusted Income Estates Certificates, the installment investment plan, from American Associated Dealers, Incorporated (New Jersey), and Walter E. Stewart, its sponsor, on September 21, 1933.⁷³ This contract was cancelled for a consideration of \$5,000 paid to Walter E. Stewart and another contract made for the sale of the sponsorship of Trusted Income Estates by Affiliated Distributing Group, Incorporated (the new name for American Associated Dealers, Incorporated [New Jersey]), in February 1935.⁷⁴

On November 6, 1933, American Associated Dealers, Incorporated (New Jersey), changed its name to Affiliated Distributing Group, Incorporated, and on June 19, 1934, Affiliated Distributing Group, Incorporated, changed its name to Affiliated Management, Incorporated.⁷⁵

1. TRUSTEED INDUSTRY SHARES

On April 28, 1934, Walter E. Stewart sold his interest in the depositor corporation, Affiliated Distributing Group, Incorporated, then depositor for Trusted Industry Shares and Trusted American Bank Shares, Series B, to Thomas F. Lee, formerly of Lee, Stewart & Co., Incorporated. The consideration for this contract contemplated a cash payment to Mr. Stewart of \$10,000 in two installments of \$5,000 each; the release by Mr. Stewart of a claim against the corporation of approximately \$8,000; the right by Mr. Stewart to receive an overwriting fee of one-half of one per cent of the offering price of all Trusted Industry Shares sold and the right to receive 5% of the gross profit before commissions or concessions on the sale of all other junior securities sold or sponsored by the depositors, its subsidiaries or affiliates. The overwriting rights of Mr. Stewart were limited by a schedule set out in the agreement. The contract of sale also provided that if the purchaser defaulted, Affiliated Distributing Group, Incorporated, would assign immediately to Mr. Stewart all interest in Trusted Industry Shares.⁷⁶

The sponsorship of Trusted Industry Shares, apparently retaken by W. E. Stewart⁷⁷ was sold on January 24, 1935, by Affiliated Man-

⁷³ Registration Statement for Affiliated Distributing Group, Inc., filed with Securities and Exchange Commission, File No. 2-688-1, Exhibits 1, 4 A and E.

⁷⁴ Subsequently on December 15, 1933, American Associated Dealers, Inc. (Maryland), changed its name to Trusted Estates, Inc., and on March 1, 1935, Trusted Estates, Inc., changed its name to Income Estates of America, Inc. (Reply to the Commission's questionnaire for Trusted Income Estates Certificates, Item 3 (j).)

⁷⁵ *In the matter of T. I. S. Management Corporation*, Complaint File.

⁷⁶ Registration Statement for T. I. S. Management Corporation filed with the Securities and Exchange Commission, No. 2-1303-1, Exhibit Ba.

⁷⁷ Registration Statement for Administrative Corporation filed with the Securities and Exchange Commission, File 2-1968-1, Exhibit BS.

On May 14, 1934, Thomas F. Lee incorporated Affiliated Investors Fund, Inc., later known as Affiliated Fund, Inc., an open-end management company. (Public Examination, Affiliated Fund, Incorporated, at 18272 et seq., and 18301-2. See also Registration Statement for Affiliated Fund, Inc. filed with Securities and Exchange Commission, File No. 2-917-1, Exhibit A1.) This investment trust was to be distributed and managed by Affiliated Distributing Group, Inc. (Registration Statement for Affiliated Fund, Inc., op. cit., Item 31 and Exhibit E.) Subsequently, Affiliated Fund, Inc., was acquired by Lord, Abnett & Company, Inc., in October 1934, from Thomas F. Lee without cost (Public Examination, Affiliated Fund, Inc., op. cit., at 18273, 75, 76, 77).

⁷⁸ Apparently there was an undisclosed shift of sponsorship between April 28, 1934, the date of acquisition of sponsorship of this trust by Mr. Lee from Mr. Stewart, and January 24, 1935, the date of acquisition of sponsorship by T. I. S. Management Corporation from Affiliated Management, Incorporated, of which Mr. Stewart was then president.

agement, Incorporated, of which W. E. Stewart was president, to T. I. S. Management Corporation, incorporated on January 21, 1935, and of which F. D. Crosby was president, for \$15,000 in cash. All orders for Trusteed Industry Shares for any installment investment plan in which Mr. Stewart had any interest were to be referred to Mr. Stewart and he was to be entitled to purchase the trust shares at a quoted bid price of not less than 90% of the asked price.⁷⁸

2. TRUSTEED AMERICAN BANK SHARES, SERIES B

On July 21, 1934, Affiliated Management, Incorporated, of which Thomas F. Lee was president, assigned all its interest as depositor of Trusteed American Bank Shares, Series B, to Administrative Corporation, a new corporation organized by Mr. Stewart on July 10, 1934.⁷⁹ Having retained in this way the sponsorship of Trusteed American Bank Shares, Series B, Mr. Stewart sold it to British Type Investors, Inc. under an agreement dated October 1, 1934 between Administrative Corporation and British Type Investors, Inc.⁸⁰ The new sponsor did not keep the sponsorship of Trusteed American Bank Shares, Series B, very long but sold it to Bryant & Kenyon, Inc., on September 5, 1935.⁸¹ This depositor was one of those acquired by Donald P. Kenyon and his associates⁸² at the inception of a certain series of acquisitions, prior to the proceedings against Kenyon and his associates by the Attorneys General of New York and New Jersey under security fraud acts. Like other acquisitions of this nature, this one was apparently for the purpose of securing lists of certificate holders who could be solicited to exchange their trust certificates for securities issued by corporations sponsored by Mr. Kenyon. Thus, since Mr. Kenyon subjected the investment companies and investment trusts under his control to a steady process of exploitation, Administrative Corporation and the holders of Trusteed American Bank Shares, Series B, were apparently to be used as auxiliaries in Mr. Kenyon's program. At the public examination of the Kenyon group, Lucian A. Eddy, an associate of Mr. Kenyon during the period of his activities during 1936, testified:⁸³

Q. Now, the real purpose, wasn't it, Mr. Eddy, of buying these trusts, was to get a copy of their shareholder lists, wasn't it?

A. That was what it really amounted to.

Q. Yes.

A. And the right to approach the shareholder through that list, of the depositor corporation.

Pursuant to this same program, Mr. Kenyon and his associates acquired control of the following fixed trusts and their depositors:⁸⁴

⁷⁸ Registration statement for T. I. S. Management Corporation, File No. 2-1303-1, Exhibits Ba and Bd.

⁷⁹ Registration Statement for Administrative Corporation, File No. 2-1968-1, Exhibits B2, F.

⁸⁰ Registration Statement for Administrative Corporation, File No. 2-1968-1, Exhibit B6.

⁸¹ Moody's Manual of Investments, Banks, etc., 1938, p. 393.

⁸² Public Examination, Alpha Shares, Inc., et al., at 19510-11.

⁸³ Public Examination, Alpha Shares et al., at 19971.

⁸⁴ See Report on Investment Trusts and Investment Companies, Pt. Three, Ch. II, Sec. VIII (House Doc. No. 279, 76th Cong.), for further details concerning these acquisitions. See also Public Examination, Alpha Shares, Inc., et al., at 19958-78.

Trustee Standard Shares, Inc., depositor for Trustee Standard Investment Shares, Series C, and Trustee Standard Investment Shares, Series D.

Standard Oilshares, Inc., depositor for Trustee Standard Oilshares, Series A, and Trustee Standard Oilshares, Series B.

American Composite Shares Corporation, depositor for American Composite Trust Shares, Cumulative Series.

Investment Trust of New York, Inc., depositor for Collateral Trustee Shares, Series A.

National Associated Dealers, Inc., depositor for Universal Trust Shares and Trusteed New York Bank Shares.

Although Mr. Kenyon had secured control of the assets of about 30 investment companies and trusts and related companies between December 1935 and the end of June 1936, he had been forced to relinquish his interests in most of such organizations by the end of 1937, through the intervention of the Attorneys General of New York and New Jersey and the Federal Deposit Insurance Corporation.⁸⁵

Apparently Mr. Kenyon withdrew from Bryant & Kenyon, Inc., in December 1935, and consequently his relations with Administrative Corporation ceased at that time. Thus, at the end of 1937, Frank Bryant appeared as the principal sponsor of Trusteed American Bank Shares, Series B.

3. ACQUISITION BY F. D. CROSBY OF CONTROL OF TRANSCONTINENT SHARES CORPORATION⁸⁶

On October 29, 1937, F. D. Crosby, the owner of a controlling interest in T. I. S. Management Corporation,⁸⁷ depositor of Trusteed Industry Shares, purchased control of Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.), depositor for Deposited Bank Shares, Series B-1, Deposited Bank Shares, Series N. Y., Deposited Bank Shares, N. Y., Series A, Deposited Insurance Shares, Series A, and Deposited Insurance Shares, Series B, and sponsor of two installment investment plans.⁸⁸

Another trust in which there was probably substantial public participation but about which the Commission could secure little or no information was Universal Trust Shares, dated July 1, 1930, of which Transcontinental Shares Corporation⁸⁹ was the original depositor and National Associated Dealers, Inc., was a later depositor.⁹⁰

⁸⁵ For a full discussion of Mr. Kenyon and his relations with the companies and trusts under his control see Report on Investment Trusts and Investment Companies, Pt. Three, Ch. II (House Doc. No. 279, 76th Cong.).

⁸⁶ Moody's Manual of Investments, Banks, etc., 1938, p. 416.

⁸⁷ For a description and discussion of T. I. S. Management Corporation and Trusteed Industry Shares, see Ch. X, Profits to Sponsors, *infra*.

⁸⁸ The following table (Table 8) shows the various transfers of sponsorship of the trusts sponsored by American Associated Dealers, Inc., for which information was available. (See table on next page.)

⁸⁹ This is not to be confused with Transcontinent Shares Corporation, formerly Bank and Insurance Shares, Inc., a Pennsylvania corporation, depositor of Deposited Bank Shares, Series B-1, Deposited Bank Shares, Series N. Y., Deposited Bank Shares, N. Y. Series A, Deposited Insurance Shares, Series A, and Deposited Insurance Shares, Series B. See Ch. III, Organization and Growth of Fixed Investment Trusts, p. 37, *supra*.

⁹⁰ See Table 8, *supra*. Poor's Fiscal Volume, 1936, p. 1900, reports that on May 22, 1933, an offer to exchange Universal Trust Shares was made by W. G. Riley & Co. for Participating Shares of Bancshares, Ltd., but it also reports that no recent information was available on Bancshares, Ltd. (*Id.*, at 2634).

Transcontinental Shares Corporation, depositor for Universal Trust Shares, was adjudged a bankrupt in 1932 (Poor's Fiscal Volume, 1938, p. 3393). See Ch. XI, Realizing on Shares, p. 207, *infra*.

TABLE 8.—Miscellaneous data for fixed and semifixed trusts originally sponsored by American Associated Dealers, Inc.

Name of trust	Date of agreement	First depositor	Second depositor	Third depositor	Fourth depositor	Fifth depositor	Total sales December 31, 1935	Present status
Trusteed American Bank Shares.	July 1, 1930	American Associated Dealers, Inc. (New York Corporation).					Unknown	Liquidated (1934).
Public Service Trust Shares, Series A.	Jan. 1, 1930	Security Distributors Corporation (C. M. Cryan, sponsor).	American Associated Dealers, Inc. (N. Y.) (W. E. Stewart, sponsor).				do	Sales discontinued.
Trusteed American Bank Shares, Series A.	July 1, 1931	American Associated Dealers, Inc. (New York Corporation).					Unknown (1,053,000 shares outstanding Jan. 19, 1933).	Do.
Trusteed American Bank Shares, Series B	April 1, 1933	American Associated Dealers, Inc. (New Jersey corporation) (Walter E. Stewart, sponsor)			Administrative Corporation (British Type Investors, Inc., sponsor) (Oct. 1, 1934).	Administrative Corporation (Frank Bryant, sponsor. Sept. 2, 1935).	\$938,538	Date of last offering, Oct. 7, 1935.
Trusteed Industry Shares	do	American Associated Dealers, Inc. (New Jersey corporation).	Affiliated Distributing Group, Inc. (Thomas F. Lee, sponsor) Apr. 28, 1934 name changed to Affiliated Management, Inc.	Administrative Corporation (W. E. Stewart, sponsor) July 21, 1934.	T. I. S. Management Corporation (F. D. Crosby, sponsor) Jan. 24, 1935).		\$1,943,208	Registration Statement amended as of Oct. 15, 1936, to make trust a mutual investment company.
Universal Trust Shares	1930 (July 1, 1930, first offering)	Transcontinental Shares Corporation (adjudged bankrupt Oct. 9, 1933).	Unknown	Administrative Corporation (controlled by British Type Investors, Inc.), depositor for Universal Trust Shares in 1935).	British Type Investors, Inc.	(Donald P. Kenyon, sponsor) National Associated Dealers, Inc., Apr. 11, 1936. Receiver appointed for depositor.	Unknown (\$60,000 shares outstanding Feb. 11, 1932).	Sales discontinued.

D. Trusts Sponsored by Dwelly, Pearce & Company, Inc.

No information of any substance could be obtained concerning Trustee Standard Oilshares, Series A, and Series B, Trustee Standard Investment Shares, Series C and Series D, and Trustee Standard Utility Shares, sponsored by Dwelly, Pearce & Company, Inc. In a circular offering Trustee Standard Utility Shares, the sponsor stated that an amount in excess of \$30,000,000 of the first four trusts was sold.⁹¹

E. Super-Corporations of America Depositors, Inc.

The various transfers of sponsorship of the six trusts originally sponsored by S. W. Straus & Co., Incorporated, have been described previously.⁹²

V. EXCULPATION OF THE DEPOSITOR

The depositor corporation was in full control of the operation of the trust, and the terms of the trust agreement were not the subject of negotiation between the depositor and the investor who had to take the agreement as he found it. Therefore, the trust agreement customarily contained elaborate provisions having as their purport the exculpation not only of the sponsors, but also of the depositor corporation as such, its officers, stockholders, directors, and employees from all liability, except for acts or omissions characterized by wilful misconduct and gross negligence. These provisions for the exculpation of the depositors were quite as comprehensive as those by which the trustees exempted themselves from liability.⁹³ Typical exculpatory provisions for the depositor are found in the trust agreement creating United States Electric Light & Power Shares, Inc., Trust Certificates, Series B:⁹⁴

(1) The depositor is released from liability if hindered by law from taking any action required under the agreement.

(2) The depositor is not liable for any taxes or governmental charges levied with respect to the agreement, the certificates or the deposited property or any income or interest of the trustee or any holder of a certificate.

(3) The depositor is not liable for any action taken or omitted nor for any direction given in good faith nor for anything whatsoever in connection with the trust created except for its own wilful misconduct or gross negligence.

(4) The depositor is not liable for any expenses or disbursements of the trustee and is not responsible for acts or omissions of the trustee.

⁹¹ The following table (Table 9) shows the various transfers of sponsorship of these trusts for which information was available. (Summary statement supplied the Commission for Trustee Standard Utility Shares [Exhibit F].) (See table on next page.)

⁹² The following table (Table 10) indicates the transfers of sponsorship of these trusts. (See table on next page.) See p. 47, *supra*.

⁹³ See discussion of exculpation of trustee, Ch. V, The Trustee, *infra*.

⁹⁴ Public Examination, Calvin Bullock Trusts, Commission's Exhibit No. 379.

TABLE 9.—Miscellaneous data for fixed and semifixed trusts originally sponsored by Dwelly, Pearce & Company, Inc.

Name of trust	Date	Depositor	Second sponsor	Third sponsor	Total sales	Present status
Trustee Standard Oil Shares, Series A.	May 1, 1928	Standard Oilshares, Inc.	Charles R. Kenyon (June 1936).	-----	Unknown.	Sale discontinued.
Trustee Standard Oil Shares, Series B.	Feb. 1, 1930	do	do	-----	do	Do.
Trustee Standard Investment Shares, Series C.	July 1, 1930	Trustee Standard Shares, Inc.	Lord, Abbett & Co., Inc. (February 1936).	Charles R. Kenyon (June 6, 1936).	\$4,537,511 (approximately).	Do.
Trustee Standard Investment Shares, Series D.	-----do-----	do	do	do	\$5,420,852 (approximately).	Do.
Trustee Standard Utility Shares.	Oct. 1, 1931	Trustee Standard Shares, Inc. (name changed to Deposited Funds Corporation on Feb. 9, 1934).	-----	-----	\$103,930 (approximately).	Liquidated in 1935.

TABLE 10.—Sponsors of Super-Corporations of America Trust Shares ^a

Name of trust	Date of agreement	First sponsor (Apr. 25, 1930)	Second sponsor (Mar. 8, 1933)	Third sponsor (Aug. 9, 1933)	Fourth sponsor (Oct. 25, 1935)	Total sales	Total outstanding as of Dec. 31, 1935
Super-Corporations of America Trust Shares, Series A.	May 1, 1930	S. W. Straus & Co., Inc.	Manufacturers Trust Co.	American Trustee Share Corporation.	Lord, Abbett & Co., Inc.	\$29,790,261	^b \$887,455
Super-Corporations of America Trust Shares, Series B.	do	do	do	do	do	14,155,290	^b 455,441
Super-Corporations of America Trust Shares, Series C.	Jan. 1, 1931	do	do	do	do	2,834,303	215,264
Super-Corporations of America Trust Shares, Series D.	do	do	do	do	do	2,803,745	316,601
Super-Corporations of America Trust Shares, Series A.A.	Jan. 1, 1932	do	do	do	do	5,996,374	1,216,597
Super-Corporations of America Trust Shares, Series B.B.	do	do	do	do	do	2,773,146	718,771

^a On Dec. 31, 1938, Lord, Abbett & Co., Inc. transferred its interest in Super-Corporations of America Depositors, Inc. back to American Trustee Share Corporation. One trust, Super-Corporations of America Trust Shares, Series BB had been terminated on Aug. 10, 1938 (Derived from supplementary information supplied the Commission for Super-Corporations of America Trust Shares).

^b Oct. 31, 1935.

(5) All subscribers, officers, directors, and stockholders of the depositor or its successors are released from all liability in connection with the trust agreement or its performance or operation and personal liability against such parties is expressly waived as a condition to the execution of the trust agreement and the issuance of the certificates and trust shares thereunder.

Without exception the trust agreements analyzed in this study extend the same degree of exculpation to depositors, their officers, subscribers, and stockholders.⁹⁵

When examined as to the protection for investors in fixed trusts, Cedric Smith of Smith, Burris and Company, one of the sponsors of Corporate Trust Shares, testified:⁹⁶

Commissioner DOUGLAS: That was a situation that bothered me. I can see how the depositor is protected; I can see the depositor protected all the way down the line clear up to these acts of negligence. I can see the trustee protected. I am just wondering at what point your investor is protected. I haven't seen anything yet.

The WITNESS: The investor doesn't have very much to be protected against, because there is no element of management running through this company. He has simply bought a list of stocks and is holding a warehouse receipt for a group of stocks.

By Commissioner DOUGLAS:

Q. But he can't vote and nobody is in there to exercise any intelligence in voting for him. They are acting as slot machines. If a certain weight falls, a certain thing happens.

A. That is true.

By Mr. SCHENKER:

Q. Furthermore, there was some element in the elimination provision which was subsequently included——

A. That is a vital element.

Q. And the sales load included payment for that elimination element?

A. That is correct.

Q. And yet there was no protection for the investor because if the depositor folded up, he took with him payment for that protection for twenty years?

A. The theory of where he was protected there is in the diversification of stocks. Even if certain stocks went entirely out of the picture, there was still a large group of stocks there that would more or less protect his investment. That was the investment theory behind it.

Mr. Smith, however, previously had admitted that mere diversification was not enough protection if the depositor failed to act:⁹⁷

Q. Just in general, if all these duties and functions we have been discussing here—suppose any one or all of them are not performed by the Depositor, what happens to the certificate holder?

A. He would simply be in effect holding a fixed list of stocks.

⁹⁵ For discussion of the meaning of gross negligence in trust indentures, see *Hazzard v. Chase National Bank of the City of New York*, 159 Misc. 57, 287 N. Y. S. 541, 555 (1936), approved without opinion by Appellate Division, 14 N. Y. S. (2) 147 (1939). This case is considered in Ch. V, The Trustee, pp. 76, 80, and 86, *infra*.

⁹⁶ Public Examination, Ross Beason & Co., Inc., Group, at 11231-3. See also in Public Examination, Calvin Bullock Trusts, at 3828-9, testimony of Alfred Jaretzki of Sullivan & Cromwell, counsel for Calvin Bullock quoted in Ch. VI, The Trust Agreement, p. 95, *infra*.

⁹⁷ Public Examination, Ross Beason & Co., Inc. Group, at 10999-11000.

Q. If none of these functions were performed, it would obviously be to the detriment of the certificate holder?

A. That would depend on what happened to the stocks.

Q. But if something very unfortunate happened, then it would be to the detriment of the certificate holders?

A. If something unfortunate happened to the stock and the best investment advice was that the stock should be sold, and you had no one to authorize the sale from the trust, then it would be detrimental.

Q. So that in the event the depositor fails to act, if he still remains in business and still fails to act, he is under a high degree of exculpation by reason of that provision?

A. Correct.

Q. If he goes out of business, of course, there is nothing to which the stockholder can look for the exercise of these functions?

A. That is correct.

Q. There is an alternative duty on the trustee, and that leaves him nobody but the trustee to look to; is that correct?

A. That is right.

As was pointed out by Hugh Bullock, the depositor corporation was not in the picture to represent the investor:⁹⁸

Q. * * * Don't you think if you had a real depositor corporation, a separate entity which represented fully the investors' interests, that they would see that all the various sources of income really went to the benefit of the trust and that underwriters didn't get it but just got a flat fee of 9½ per cent? Isn't that one of the inherent weaknesses of these security trusts?

A. * * * I don't call the depositor corporation necessarily the representative of the investors' interests. I think the depositor corporation is simply one of the parties to a trust agreement, the three parties to which are the trustee, the depositor corporation, and future holders of trust certificates themselves * * *.

The attitude of sponsors toward the fixed trusts they created is also revealed in the testimony of Donald Hardenbrook, former president of the United States Shares Corporation, which had many leading industrialists, economists, and professors of economics affiliated with it whose photographs and biographies were utilized in sales campaigns. Mr. Hardenbrook testified:⁹⁹

Q. Now, as president of the sponsoring corporation, what did you think your duty to the certificate holders was, with respect to that fund?

A. That is rather difficult to enumerate.

Q. Just give me a few of the obligations or duties that you feel that you owed to the certificate holders, at least to those certificate holders during your incumbency, Mr. Hardenbrook.

A. I should say that my obligation was merely to discharge my duties as president of the sponsoring company in the best way that I could.

Q. And you felt that you had no fiduciary obligation to these stockholders to see that nothing happened to these trusts, to the injury of the certificate holders?

A. I should think that that responsibility rests with the trust company, and the fiduciary capacity is in the hands of the trust company who holds the securities.

⁹⁸ Public Examination, Calvin Bullock Trusts, at 3897-8.

⁹⁹ Public Examination, The Equity Corporation, at 8202-5.

Q. Now, the fact of the matter is, you know, Mr. Hardenbrook, that these 11 fixed trusts were abandoned, and the trustees resigned because there was no provision made for paying their expenses, and you know that, don't you?

A. No, sir.

* * * * *

Q. In that letter¹⁰⁰ it says that "We have been intending for some time to bring to your attention the matter of the above-mentioned securities, which have been held by quite a number of our clients. Apparently the appointed trustees, the Hudson County National Bank & Trust Company of Jersey City are no longer interested in performing the duties of trustees, and the affairs of the investment trust seem to be entirely tied up.

"This seems a ridiculous situation and most unfair to small holders who are not in a position to take what legal action may be necessary to clarify this position."

Now, as I understand it, you just sold your stock to Mr. von Gaevernitz and you walked out and you were all through as far as all of these trusts were concerned.

A. I sold half of my stock to Mr. von Gaevernitz.

¹⁰⁰ A letter received by the Commission relating to Key Industries Trust, Series H, one of the trusts sponsored by United States Shares Corporation (Public Examination, The Equity Corporation, Commission's Exhibit No. 743).

Another letter of complaint with reference to Key Industry Trust Shares, Series H, may be noted. In this letter, which was also introduced in evidence in connection with the testimony of Mr. Hardenbrook, it is stated (Public Examination, The Equity Corporation, Commission's Exhibit No. 744):

A situation has developed in connection with the above-mentioned Investment Trust which is causing holders of these Trust shares, throughout Canada and the United States very considerable concern.

We are writing you on the behalf of such Clients of ours as are holders of same, which they purchased at peak prices during the 1928-1929 boom, with the hope that the Government of the United States may deem it its duty to investigate the present deadlock, in the interest of all the Shareholders, the majority of which we have reason to believe are people of small or moderate means, and to take such action as may be necessary to have a new, reliable Trustee appointed, or, failing that, to have the Trust liquidated, as soon as possible. The Trust is fully described in the printed Prospectus attached hereto.

The original Sponsor of this Trust, namely, United States Shares Corporation, 50 Broadway, New York, appears to have gone out of business some considerable time ago and to be no longer in existence. A quite complete history of the said Corporation is contained in the printed Leaflet also attached hereto. It looks as though when the 1929 Stock market "crash" came the Directors and executive Officers of the Corporation decided that no worthwhile money could be made by them by continuing the sponsorship of the various Investment Trusts (7) created by the Corporation, and they forthwith apparently "deserted the Ship" like the proverbial Rats, and left the shareholders to take care of themselves to the best of their ability.

We have been advised, under date July 27th, 1936, by a reliable New York firm that deals in Trust Shares, as follows:

"United Oil Trust Shares, Series 'H' (formerly designated KEY INDUSTRY TRUST SHARES, SERIES 'H') are quoted \$3.50 Bid, and at the present time the Assets of this Trust are held by the Hudson County National Bank & Trust Co., Jersey City, N. J., who have resigned as Trustee, and so far a new Trustee has not been appointed. The Hudson County Bank refuses to pay out Dividends or accept the Shares for liquidation, and merely, pro tem, have charge of the Assets which they will not disturb until the new Trustee is appointed. We believe they resigned about three months ago, and we do not know if any action is being taken on the appointment of a new Trustee."

It will be noted, above, that the Bid price of Over-the-Counter traders in Trust Shares is \$1.00 per share less than the Asset or liquidating value of same.

Having only been created in 1929, doubtless the total number of Shares of this particular Trust outstanding is not sufficiently large to be profitable for any Trust Company or Bank to handle, hence the resignation of the Hudson County Bank, as Trustee.

As regards Trust Series C-3 (New York Bank Stocks), we understand that United States Shares Corporation, in 1929, boasted that over \$15,000,000 of said Shares were at that time in the hands of Canadian, U. S. A., and foreign investors. No trouble has occurred as yet, as far as we know, as regards the Trusteeship of that Trust, and no trouble is likely to arise as long as it is a profitable Trust to handle. * * *

A suit was filed by Hudson County National Bank, the trustee, in October 1937 in Chancery of New Jersey to terminate this trust, and a decree for termination was entered on May 5, 1938. Hudson County National Bank, Complainant and Argosy Associates, Inc., et al., Defendants in Chancery of New Jersey, 120/348 (Supplementary information supplied the Commission for United Oil Trust Shares, Series H).

VI. CHARGES FOR SERVICES

Trust agreements did not customarily provide for compensation to the depositor for services. The depositor's compensation was ordinarily the amount of the loading charge remaining after payment of distribution and administrative costs, that is, commissions to dealers, advertising, expenses in connection with Blue Sky laws and listing expenses, organization, administration expenses, and trustee's fees. However, some trust agreements did provide specifically for compensation for the depositor upon various bases: payment of interest on the reserve fund or accumulations,¹⁰¹ or a management fee in addition to the loading charge or a proportion of income.

In the early fixed trust, Common Stock Trust Shares, Series A-1, deposited by United States Shares Corporation with The Chase National Bank of the City of New York as trustee, the depositor was entitled to receive on April 1 and October 1 of each year, from the trustee, a sum payable out of principal on each deposited unit equivalent to $\frac{1}{10}$ of 1% of the principal value of the deposited unit. This sum was to be computed on the market price of the underlying stocks and on the cash credited to the principal of each deposited unit as at the close of business on the preceding March 1 and September 1, respectively. The depositor was also entitled to retain for its own use and that of its associates its profits from the purchase or sale of certificates for trust shares or other securities, and for its own use any benefits accruing to it under the trust agreement.¹⁰² This charge was in addition to the original loading charge.

Several other trusts provided for continuing fees to the depositors.¹⁰³ The trust agreement of Trusteed Industry Shares, set up on April 1, 1933, provided for a management fee to the depositor computed on the value of the underlying property at bid prices, to be deducted from the funds of the trust. This amounted to one-half of one percent annually of the average daily value of the underlying property.¹⁰⁴

One of the highest continuing fees was that imposed on Universal Trust Shares. The trust agreement for this trust provided for a daily fee of $\frac{1}{365}$ of 1% of the market value of the underlying stocks, to pay the trustee and management, or approximately 1% per annum of the average daily value of the underlying stocks.¹⁰⁵ This trust did not differ greatly from any other fixed trust but by calling the provisions for eliminations of the underlying securities the "Brown-Carpenter

¹⁰¹ This was the basis for North American Trust Shares, 1953, at its inception. See the trust agreement for North American Trust Shares, 1953, Art. III, Sec. 4 (Reply to the Commission's questionnaire for this trust, Exhibit E-1).

¹⁰² Keane's Manual of Investment Trusts, 1928, p. 463. Further information concerning this trust was not available to the Commission.

¹⁰³ See Ch. X, Costs to Investors and Profits to Sponsors, *infra*.

¹⁰⁴ Trust agreement for Trusteed Industry Shares, Article XII, Section 12.04 (Reply to the Commission's questionnaire for this trust, Exhibit 18-A). The trust agreement for Trusteed American Bank Shares, Series B, April 1, 1933, provided in Article XII, Section 12.04, that the depositor was entitled to retain for its own use, profits from the purchase and sale of certificates and/or coupons and in addition was entitled to a supervisory fee on each day, including Sundays and holidays, of a sum equal to $\frac{1}{360}$ of 1% of the market value of the trust fund held by the trustee with adjustments for leap years. (See the reply to the Commission's questionnaire for Trusteed American Bank Shares, Series B, Exhibit E.)

¹⁰⁵ Poor's Fiscal Volume, 1938, p. 2664, and Moody's Manual of Investments, Banks, 1932, p. 2203. The Commission was unable to secure any direct information concerning this trust.

plan," the sponsors apparently found a justification for this extra charge.¹⁰⁶

In Deposited Bank Shares, Series N. Y., the depositor granted itself a fee of $3\frac{1}{2}$ cents per trust share semiannually for its services.¹⁰⁷ This amount was deducted from income received by the trustee upon the shares of the companies which were deposited or held in the reserve fund and was paid by the trustee to the depositor. This charge was based on the number of trust shares outstanding on September 1 and March 1 of each year.¹⁰⁸ However, since little or no element of management is involved in the fixed trusts, the imposition of a management fee or service charge in addition to the loading charge, which was to cover such management as there was, appears unwarranted.

VII. RELATION OF DEPOSITOR TO TRUST PROPERTY

Early in the history of the fixed trust movement there arose the question as to the legal status of the trust property.

The New England Investment Trust, Inc., depositor of Collateral Trustee Shares, dated April 16, 1927, had accepted partial payment from investors for trust shares but did not purchase the shares. The market price of the underlying securities in the units rose during the period of the contract of purchase. The cost of the unit at these increased prices, therefore, exceeded the price at which the shares in the units were sold to the public on the installment plan. The depositor, however, did not purchase the underlying securities at these increased market prices and deliver the certificates upon completion of the installment payments.¹⁰⁹

A receiver in bankruptcy for the depositor was appointed on petition of certain New York creditors on March 2, 1928.¹¹⁰ In the case of *Liberty National Bank & Trust Company in New York v. New England Investors Shares, Inc., et al.*,¹¹¹ the trustee filed a bill against the depositor and the receiver in bankruptcy praying instructions particularly on the rights and duties of the trustee with respect to trust shares presented for conversion; the delivery of underlying certificates and accrued dividends to shareholders; the sale and reinvestment of

¹⁰⁶ See Ch. X, Costs to Investors and Profits to Sponsors, p. 173, *infra*. See Ch. XI, Realizing on Shares, p. 207, *infra*, for subsequent history of this trust.

¹⁰⁷ In December 1930 the offering price per share was approximately \$7.50 (Reply to the Commission's questionnaire for Deposited Bank Shares, Series N. Y., Item 27 (iv)).

¹⁰⁸ Trust agreement for Deposited Bank Shares, Series N. Y., Article IX, Section 40 (Reply to the Commission's questionnaire for this trust, Item 18 (a)).

Independence Trust Shares, dated April 2, 1930, provided in the trust agreement that the depositor should be entitled to charge not in excess of $1\frac{1}{2}$ cents semiannually for each trust share outstanding on February 28 and August 31 of each year as an administration fee (Trust agreement for Independence Trust Shares, Article VII, Section 3. Reply to the Commission's questionnaire for this trust, Exhibit 18). This fee was to be deducted from the distribution account and paid by the trustee to the depositor. It was fixed on May 27, 1931, as $2\frac{1}{2}\%$ of currently distributable funds by the board of directors (*Id.*, p. S. 7). In the original agreement before amendment the depositor was entitled also to receive all interest allowed on deposits (*Id.*, Article VII, Sec. 8). The original published loading which was in addition, was 9% of the offering price, so that the total of all these charges was considerable (Reply to the Commission's questionnaire for Independence Trust Shares, Exhibit 19-a).

¹⁰⁹ Robinson, L. R., *Investment Trust Organization and Management*, New York, 1929, pp. 76-7.

¹¹⁰ Keane's Manual of Investment Trusts 1928, p. 513.

¹¹¹ 25 F. (2d) 493 (D. C. Mass. 1928).

the underlying securities in the event of the failure of the depositor to act seasonably; and the duty of the depositor to furnish additional signed certificates. The Court in its opinion discussed two difficulties which might arise under New York law: first, with reference to the duration of the trust, and, second, with reference to transfer of the interest of the beneficiary. The court held that the laws of Massachusetts controlled the trust and that if valid under the laws of Massachusetts the trust was valid in all jurisdictions. The Court stated:¹¹²

The incalculable loss to investors which would ensue if the holders of shares in the trust were to be deprived of the security of the trust assets would not justify a court in declaring the trust void, or in impairing the rights of the shareholders, unless it were driven to do so by indubitable and firmly established propositions of law. No such justification has been shown to exist in the present case. I am convinced that the trust is valid and that the plaintiff holds the trust res for the benefit of the holders of collateral trustee shares upon the terms, conditions, and stipulations of the written declaration of trust. I am equally convinced that the investment company, except as holder of collateral trustee shares, and except as to rights in unissued shares, has no right, title, or interest, legal or equitable, in the trust fund which would pass to its trustee in bankruptcy in the event it should be adjudicated. I have been able to discern no reason why the plaintiff would be warranted in failing, or refusing to fulfill all of its duties and obligations to the holders of collateral trustee shares, which it assumed by accepting the trust. Furthermore, I see no impediment, by reason of the receivership, which should prevent the investment company from furnishing the plaintiff with duly signed certificates, to be used in transferring shares, or in performing such acts of supervision or management, conformable to the terms of the trust, as may be necessary to conserve the interest of the shareholders.

The creditors of the depositor, therefore, were held not entitled to the trust property which was owned beneficially by the fixed-trust certificate holders.

A. Additional Activities of Depositors

Some depositors not only engaged in the business of creating numerous fixed trusts and distributing their certificates but carried on numerous other activities such as sponsorship of management investment trusts, underwriting of security issues, over-the-counter trading, and other similar investment banking or security dealer activities. The balance sheets and profit-and-loss accounts of these depositors did not break down these various activities. The certificate holders of the fixed trusts sponsored by these depositors could not ascertain whether the depositor was making a profit or loss as depositor for the particular fixed trust in which he had invested his funds.¹¹³

¹¹² *Id.*, at 497.

¹¹³ The British report on fixed trusts referred to previously (Report of the Departmental Committee appointed by the Board of Trade, 1936, London, 1936, p. 28) made the following recommendations in cases where the depositor was engaged in varied activities:

"In cases where a Management Company [the depositor] is carrying on other business in addition to the management of Unit Trusts the record of all transactions in connection with the management of the Trust should be kept separate. The following recommendations as to accounts apply only to such transactions.

"(A) Management Company's Accounts.

"1. Every Management Company whether a Public or Private Company shall file with the Registrar a copy of every Balance Sheet and Profit and Loss Account required to be prepared under Section 123 of the Companies Act, 1929, and also a Unit (or Sub-unit) Dealings Account in respect of each Trust for the period covered by the Profit and Loss Account."

So, too, some depositors in their reports combined the assets of the fixed trusts sponsored by them with their own assets as though the trusts and the depositor were one unit or organization. By this practice the depositor created the impression that it had substantial assets when practically all these combined assets belonged to the fixed trusts. When questioned on this practice in connection with United States Electric Light & Power Shares, Inc., which had assets of less than \$1,000, Hugh Bullock testified:¹¹⁴

Q. * * * When you spoke about balance sheet in this circular, it shows that the assets of the company [the depositor] are \$29,545,000.

In other words, the thousand dollars is added to the trust assets, which really don't belong to the company, do they?

A. That is a question for the auditors to answer.

Q. Wouldn't that give the representation that this is really a \$29,000,000 company, and not a \$1,000 company?

A. What do you mean by "company"?

Q. My whole point is that this is represented as an investment trust, and that there might be an ambiguity or misunderstanding that an investor would get in reading this. Would you set it up that way now, do you think?

A. No.

Q. No?

A. It was set up that way by well-known auditors in days gone by.

Q. That is in 1927?

A. Yes.

VIII. MEETINGS OF DIRECTORS OF DEPOSITOR CORPORATION

While practically all the depositors had bylaws providing for periodic meetings of boards of directors, usually monthly, and for annual meetings of the stockholders, actually the boards of directors of depositors which fell within the category of depositors with nominal assets¹¹⁵ met infrequently.

So, too, for the other type of depositor corporation, the assets of which were substantial but the public participation in which was negligible, the meetings of stockholders and directors were also unimportant. Cedric H. Smith, vice president and director of American Depositor Corporation, depositor for Corporate Trust Shares, testified.¹¹⁶

Q. And your stockholders' meetings really consisted of probably the directors' meeting, armed with a proxy of the Maryland Sponsors, who control this group?

A. Right.

Q. Would that, just stated in general, be about the set-up of the American Depositor Corporation, and also applied to the American Basic-Business Shares Corporation?

A. Yes, about the same thing.

Q. In other words, there was not a large number of stockholders and the meetings were simply paper meetings for that reason?

A. That is right.

¹¹⁴ Public Examination, Calvin Bullock Trusts, at 3900.

¹¹⁵ Such as Nation-Wide Securities Company, sponsored by Calvin Bullock. See testimony of G. P. Parkerson, id., at 3790.

¹¹⁶ Public Examination, Ross Beacon & Co., Inc., Group, at 10989.

Q. And you met under the same circumstances?

A. That is right.

In depositor corporations in which dealers had a participation, stockholders' meetings were to a certain extent held in connection with sales-promotion gatherings. John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, testified:¹¹⁷

Q. Isn't it true when you had those meetings the meetings were sales-promotion meetings?

A. Not the directors' meetings.

Q. The stockholders' meetings?

A. We used to have a group meeting, so-called, which was a meeting of the group members, every four or five months, which were sales meetings.

Bear in mind most of the stockholders of the Distributors' Group were dealers in securities, and we tried to have group meetings at the time of the annual stockholders' meeting. The annual stockholders' meeting, however, was carried on as a regular stockholders' meeting, with all of the formalities, and complete segregation, and usually on a different day from the group meeting itself.

IX. EMPLOYEES

The character of services performed by or required of employees of depositors falls into several classes. The first class consisted of the mechanical, clerical activities, which required the services of bookkeepers, stenographers, cashiers, and clerks for the performance of functions not performed by the trustee and the staff. The second class involved sales activities in the case of a depositor exercising the function of principal distributor. The third class involved activities of executives. In the case of a depositor with a large organization, which also acted as principal distributor, the services performed by the executives would consist not only of deciding on policies pursued and discharging the duties and exercising the powers granted under the trust agreement, but of acting as sales executives. The fourth class of activities were those of employees engaged in statistical and research activities.

To show the set-up of personnel as it existed in various depositors, a few examples will be cited. Distributors Group, Incorporated, had 115 full-time employees at December 31, 1935.¹¹⁸ The income statement as of that date shows salaries paid during the year 1935 of \$244,942, district managers' commissions and expenses of \$61,255, and "special compensation of officer" of \$10,000. These expenses amounted to \$316,198, out of a total expenditure of \$539,119 from which \$52,369 or 9.71% was allocated to Allied-Distributors, Inc., a wholly owned subsidiary.¹¹⁹ The employees of the company were engaged as follows: 25 to 40 employees in the accounting department to take care of the general securities business, 25 employees in the trading department, and approximately 60 employees in executive and sales activities. In addition there was one general statistician with a number of clerks as

¹¹⁷ Public Examination, Distributors Group, Incorporated, at 10485.

¹¹⁸ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 8.

¹¹⁹ Reply to the Commission's questionnaire for North America Trust Shares, 1953, Exhibit L-8. See Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 1004.

part-time statistical clerks.¹²⁰ Among salesmen and executives were included field men maintaining offices in St. Louis, Chicago, Philadelphia, New Orleans, and certain other cities, who were designated as district managers.¹²¹ The statistical work had been performed by Dean Langmuir from 1930 to 1932 but in 1932 he left Distributors Group, Incorporated, to form his own statistical company, and Distributors Group, Incorporated, abandoned its statistical department except as stated above and became a client of Mr. Langmuir.¹²²

However, Distributors Group, Incorporated, was not merely a depositor performing functions under a trust agreement but was a corporation with \$2,694,000 of gross assets at December 31, 1935, and an estimated net worth of \$460,000 at November 15, 1936.¹²³ Distributors Group, Incorporated, performed all the offices of principal distributor of the trust certificates, and conducted a large investment, trading, underwriting, and general distributing business. No data are available to indicate the amount which might be assigned solely to the conduct of activities as depositor, or even the amount received by the statisticians.

American Trustee Share Corporation, depositor for Diversified Trustee Shares, Series A, B, C, and D, presents a different picture. That corporation had eight part-time employees at December 31, 1935, who spent approximately one-fourth of their time in behalf of the depositor, and their principal employer, Massachusetts Distributors, Inc., parent of the depositor, charged the latter on that basis.¹²⁴ The corporation's net income for the first 10 months of 1935 was \$11,914.65 and total gross assets at October 31, 1935, amounted to \$40,655.07.¹²⁵

United States Electric Light & Power Shares, Inc., the Delaware corporation which was depositor for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A and Series B, had no employees, and was not charged with the services of any employees. All functions were performed by employees of the sponsor, Calvin Bullock, whose personnel consisted in October 1936 of 74 individuals. It had 11 offices in major centers, including one in Montreal, Canada, and one in London, England. Each office was in charge of a branch manager. Nineteen people in the New York office worked in the distribution department and 14 or 15 in the management department. Forty-one were engaged in administrative activities.¹²⁶ In October 1936 the statistical department of Calvin Bullock consisted of 14 individuals. Of these 14 persons, 7 were engaged technically in statistical

¹²⁰ Supplementary information supplied the Commission for Distributors Group, Incorporated.

¹²¹ Ibid.

¹²² Ibid., and Public Examination, Distributors Group, Incorporated, at 10455.

¹²³ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit L-8. See Appendix M. See also Public Examination, The Equity Corporation, at 10253 and supplementary information supplied the Commission by Distributors Group, Incorporated.

¹²⁴ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7499.

¹²⁵ Reply to Commission's questionnaire for Diversified Trustee Shares, Original Series, Exhibit C. American Trustee Share Corporation was said to have been sold to Massachusetts Distributors, Inc., in 1934 for a very small consideration after all its liquid assets had been withdrawn. (See Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7496-7.)

¹²⁶ Public Examination, Calvin Bullock Trusts, at 4198 et seq.

work and 3 were members of the investment policy committee. The remaining 4 were analysts.¹²⁷

Of the remainder of the larger trusts, American Depositor Corporation had, as against 35 or 40 at the peak of distribution,¹²⁸ 6 employees, including officers, at December 31, 1935.¹²⁹ Super-Corporations of America Depositors, Inc., had 5 employees, including officers,¹³⁰ and Transcontinent Shares Corporation, formerly Bank and Insurance Shares, Inc., had approximately 22 employees at December 31, 1935.¹³¹

No depositor, except Distributors Group, Incorporated, had a large organization. And it appears that for the activities required of a depositor of a fixed trust, such a large organization is not required. Where the staffs are extensive, most of the activities are other than those arising under the trust agreements, usually promotional in nature, and are not necessarily connected with fixed-trust operation.

¹²⁷ Public Examination, Calvin Bullock Trusts, at 4219-20, and Commission's Exhibit No. 410.

¹²⁸ Public Examination, Ross Beason & Co., Inc. Group, at 10987.

¹²⁹ Reply to the Commission's questionnaire for Corporate Trust Shares, Original Series, Item 8.

¹³⁰ Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, Item 8.

¹³¹ Reply to the Commission's questionnaire for Deposited Bank Shares N. Y., Series A, Item 8. See also Public Examination, Transcontinent Shares Corporation, at 13731. This comparatively large number of employees is probably traceable to the fact that Transcontinent Shares Corporation was still distributing actively various of its fixed trusts at the end of 1935.

Chapter V

THE TRUSTEE

The trustee was the person with whom the assets or property (the *res*) of the trust were deposited under the terms of the trust agreement, and in practically every case was a bank or trust company. Investors were induced in no small measure to buy fixed-trust shares in reliance upon the protection which they thought they would secure through the trustee.¹ The advertisements for fixed trusts stressed, perhaps more than any other point, the fact that underlying stocks were placed in the custody of a trustee, and that the investor thereby secured complete protection.²

I. DUTIES OF THE TRUSTEE

The trustee had legal title to and custody of the underlying securities and property,³ and was charged with the administration of the trust under the provisions of the trust agreement.

The trust agreements creating the fixed trust almost invariably provided for the following trustee's duties, among others:⁴

- (1) To set up the trust unit on deposit of the underlying property by the depositor;
- (2) To execute and deliver trust certificates to the depositor;
- (3) To keep books for registration of such certificates;
- (4) To hold all certificates of underlying securities registered in its name or the name of a nominee;
- (5) To receive all income and distributions on underlying property and to hold all moneys received by it as a general deposit without reference to requirements for segregation of trust funds;
- (6) To credit monthly to the distribution fund interest on all moneys held in the reserve fund or the distribution fund at New York Clearing House rates;

¹ Appendix C contains a list of the trustees of fixed and semifixed trusts.

² For example, an advertisement for North American Trust Shares, 1953, published in the daily newspapers, stated (Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit G-1):

"UNPARALLELED RECORD

"The stocks of 28 outstanding American corporations which underlie NORTH AMERICAN TRUST SHARES are guarded in the vaults of a great trust company which acts as Trustee. Unparalleled is the record of such trust companies in the United States. Beneficiaries of trust funds administered by American trust companies have never suffered a loss of trustee property, a recent report shows. Here is one of many safeguards surrounding NORTH AMERICAN TRUST SHARES, an investment in stocks of 28 giant corporations whose combined assets exceed \$25,000,000,000 * * *. Untouchable except for their rightful owners, these common stocks remain always the property of trust-share holders."

³ See Ch. VII, Deposited Property, p. 108, *infra*.

⁴ The provisions cited, which are typical, are contained in the trust agreement for Super-Corporations of America Trust Shares, Series A. (Reply to the Commission's questionnaire for this trust, Exhibit B.) See also testimony of Hayward A. Hibberd with reference to the duties of the trustee. (Public Examination, Ross Beason & Co., Inc. Group, at 11117-23.)

(7) To sell all stock, stock dividends, rights, and split-ups without the surrender of any of the shares of stock forming part of the stock unit held by it and credit the net proceeds of such sales to the distribution fund;

(8) To sell all the shares of a constituent company, which, under conditions set out in the trust agreement, fails to pay dividends;

(9) To sell the stock of a constituent company which has become unavailable as provided in the trust agreement;

(10) To handle exchanges of shares, mergers, consolidations, and dissolutions of constituent companies, protective committees, and assessments as provided in the trust agreement;

(11) To vote shares of stock held by it in such manner as the depositor in its absolute discretion shall direct in writing and deliver proxies to the depositor as directed by it;

(12) To act, if any event should happen not specified in the agreement, as the depositor in its absolute discretion shall direct in writing, or if the depositor shall fail to give such directions, as the trustee in its absolute discretion shall determine;

(13) To keep proper books and records and to open them for inspection by the depositor and holders of not less than 2,000 trust shares;

(14) To act in its own absolute discretion without direction or order at any time the depositor shall fail after a reasonable time has elapsed to give any direction or order as required by the agreement and no express provision is made for action to be taken by the trustee in such event;

(15) To determine any question arising under or in connection with the agreement in any judicial proceeding, every holder of any certificate or any bearer of any coupon to be deemed to be duly represented by the trustee for all purposes if the trustee be a party and shall duly appear, but the trustee is not required to appear unless requested by the holders of one or more certificates and indemnified against loss or damage.

II. NATURE OF THE DUTIES OF THE TRUSTEE

An examination of these duties and functions indicates they are essentially mechanical and that no investment discretion is required of the trustee. Frederick E. Lober, vice president of the Manufacturers Trust Company, successor trustee to Chatham Phoenix National Bank and Trust Company, testified with reference to the duties of the trustee:⁵

Q. Then you don't think that the Chatham Phoenix, as trustee for the Diversified "C" is a trustee, in fact, at all. It is more of a custodian and mechanical agent?

A. There has been a lot of discussion about the proper interpretation of the word "trustee" particularly as it affects corporate structures.

* * * * *

Q. Do you see any duties, say, for instance, that are more than mechanical duties? Is there any duty under this indenture more than a mechanical duty?

A. I should say not, because there are no provisions anywhere here, where, if a default should happen such as under a real-estate mortgage, for example * * *.

⁵ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7521-2. See also testimony of Hayward A. Hibberd, vice president of The Chase National Bank of the City of New York (Public Examination, Ross Beason & Co., Inc., Group, at 11117).

Q. Then your opinion is that you lean toward the school that believes this is not a true trust?

A. I don't think it is a trust in the same category as a trust where there is a bond issue put out in the hands of the public * * *.

Henry A. Theis, vice president of the Guaranty Trust Company of New York, trustee for North American Trust Shares, 1953, also testified:⁶

Q. * * * you said⁷ "that the holder knows what underlying securities they own, and I am sure that none of them should look to us as trustee to supervise their investments." Is that right?

A. That is right.

Q. Wasn't there any obligation on your part to supervise eliminations?

A. No, sir; the eliminations were automatic, upon the failure to pay a dividend.

Q. So that you really weren't a trustee in the sense of a managing trustee. You were more of a custodian?

A. Yes.

Q. Just on that point, do you think that the term "trustee" ought to be used in this loose sense that it is? There are a great many custodian accounts which ought to be called by some other name than "trusteeship" which is identified with active management supervision.

A. I understood when this trust was created, that it was necessary to make it a trust, for legal reasons, and not a mere custodianship, as Mr. Myers may be able to amplify on the legal reasons for making it a trust instead of an agency function.

Q. But as far as you are concerned, you weren't anxious to be called trustee?

A. We would have been just as satisfied to have been called "custodian" or "depository."

Q. There is a greater responsibility in the public's eye, if you are called "trustee" than if you are called "depository," isn't there?

A. I am not so sure that there is, and I know that there may be a difference of opinion.

Q. You know a great many people feel, * * * even though you may not, that a trustee has broader responsibility than a mere depository?

A. I feel that, if the public doesn't place quite so much reliance upon the name "trustee" as I know the various members of the S. E. C. do,—

Q. You think that the S. E. C. is ahead of the public on that, do you?

A. I don't know whether it is ahead of the public; I think that it is thinking in the right direction.

Similar testimony was given by Francis H. Shields, vice president of the Pennsylvania Company for Insurances on Lives and Granting Annuities, trustee for the trusts sponsored by Transcontinent Shares Corporation:⁸

Q. Now, Mr. Shields, I have here about ten or eleven duties, functions of the trustee under the indenture. I have tried to list them. As we see it, the functions are to receive and to keep the securities and cash; to authenticate and issue the trust shares; to collect the income on the deposited property; to sell the rights, option, stock dividends, and other properties of that character; and

⁶ Public Examination, Distributors Group, Incorporated, at 10421-2.

⁷ Referring to correspondence between the trustee and sponsor.

⁸ Public Examination, Transcontinent Shares Corporation, at 13777-8.

to credit the proceeds in the special fund; to act as paying agent for the trust; to register the certificates of trust shares; to keep books for the trust; to pay the taxes that it is required to pay; to make the periodic distribution to certain certificate holders; to deliver stocks to be eliminated upon the instructions of depositors. Those are all duties, are they not?

A. Yes.

Q. Are there any other duties that the trustees have under the indenture?

A. I don't recall whether or not you named the duties of the trustee on the elimination of shares.

Q. I said to deliver those eliminated items under proper instructions.

A. Yes. Of course, on the termination of the trust they would be used to wind up the trust.

Q. Now, there are no discretionary duties whatsoever in there, are there?

A. The duties are all defined by the trust agreement. There is practically nothing calling for the exercise of discretion.

The nature of these typical duties are clearly such as would bring the party exercising or charged with them within the characterization of stakeholder or custodian rather than as trustee, as the latter word is commonly understood. The statement of the Court in *Hazard v. Chase National Bank of the City of New York*⁹ is also applicable to the duties of the trustee for fixed investment trusts:

In such indentures the use of the word "trustee" is clearly a misnomer. The corporate trustee has very little in common with the ordinary trustee, as we generally understand the fiduciary relationship. The ordinary trustee is supposed to represent the interests of the beneficiary alone. The courts impose upon him an undivided loyalty to the cestui que trust. So strict is the rule of undivided loyalty to the beneficiary that the mere fact that a trustee has an interest inconsistent with the interest of his cestui, casts upon him the burdens of explanation and justification. *Munson v. Syracuse, G. & C. R. Co.*, 103 N. Y. 58, 8 N. E. 355; *Globe Woolen Co. v. Utica Gas & Electric Co.*, 224 N. Y. 483, 121 N. E. 378. The trustee under a corporate indenture, on the other hand, has his rights and duties defined, not by the fiduciary relationship, but exclusively by the terms of the agreement. His status is more that of a stakeholder than one of a trustee. Indeed, in the earlier indentures the documents were rather in the form of escrow agreements, and no duties were assigned to the trustee. See 33 Columbia Law Review, 97, 99.

Hayward A. Hibberd, vice president of The Chase National Bank of the City of New York, trustee for the various series of Corporate Trust Shares, claimed, however, that the designation of the trustee on these trusts was not misleading:¹⁰

Q. The fact of the matter is that a great deal of prominence is given to the fact in the offering material that the Chase National Bank is the Trustee. It says:

"The Chase National Bank of the City of New York, trustee" without any limitation. Isn't that so?

A. That is so.

⁹ See Ch. IV, The Depositor, p. 63, supra and discussion of this case in this chapter, pp. 80, 86. infra.

¹⁰ Public Examination, Ross Beason & Co., Inc., Group, at 11180. Mr. Hibberd stated that the power to terminate the trust under certain conditions justified the designation "trustee." (Id., at 11172.)

Q. Now, without any qualification?

A. That is so.

Q. In that respect, isn't the designation of "Chase National Bank of the City of New York" misleading?

A. I don't think so.

* * * * *

Q. Well, let me ask you this question: Do you think—I am not asking for a legal opinion, but from your point of view as a trust executive or business executive who had had experience in this field, do you think that it should be unlawful to use the word "trustee" in situations like this?

A. No; I don't feel so.

Q. You don't think that it is a misleading connotation?

A. I don't think so.

III. REASONS FOR DESIGNATION "TRUSTEE"

In furtherance of the representations that a trust relationship existed between the "trustees" and investors and that complete protection would be given the investor by the "trustee", promoters of investment trusts were insistent upon the designation "trustee" in the trust agreement. Although some banks objected to this designation "trustee", the promoters refused to accept the designations "custodian" or "depository."¹¹ Sterling Pile, former president of Insuranshares Corporation, which was a fund type of trust, when examined with reference to the importance of the designation "trustee" in sales campaigns for trust shares, testified:¹²

Q. * * * You went to the National Bank of Commerce and tried to make arrangements for them to act as trustee under the indenture in connection with the Insuranshares Trust Certificates, did you?

A. That is right.

* * * * *

A. The substance of it [the conversation with the bank officers], as I recall, was that they had very little trustee business in the sense we wanted them to act as trustee, and in consequence of that they wanted to use the word "depository" instead of the word "trustee." And solely for sales purposes we felt that the word "trustee" would be a far clearer designation of the duties imposed upon a depository, and we wanted the use of the word "trustee." It was not, as I recall it, a refusal on the part of the National Bank of Commerce to accept that responsibility except for the use of the word "depository" instead of the use of the word "trustee."

Q. That is, they would have been willing to act under the trust indenture provided you designated them "depository" instead of "trustee"?

A. So I recall.

Q. Of course, that was not satisfactory so far as you were concerned? Isn't that so?

A. Yes, sir. As far as we were concerned it was solely a sales problem.

¹¹ Of the 56 larger trusts for which replies to the Commission's questionnaire were received, 53 used the designation "trustee" as applied to the financial institution having custody of the trust property. One trust, Diversified Trustee Shares, Series B, characterized the institution as "depository" (Reply to the Commission's questionnaire for Diversified Trustee Shares, Series B, Exhibit E).

¹² Public Examination, Allied General Corporation, at 4991-3. *

Q. It was solely a sales problem?

A. Yes, sir.

Q. And in connection with the problem the designation of "trustee" after the name of the National Bank of Commerce, of course, would be more effective than the mere designation of "depository"? Isn't that so?

A. That is right. In the investors' minds the term "trustee" meant something but "depository" meant nothing.¹³

Mr. Hibberd of The Chase National Bank of the City of New York further testified:¹⁴

Q. Coming back to one of the earlier questions Mr. Schenker asked as to the designation of "Chase, trustee," Mr. Schenker's question as to whether or not that designation was not misleading, in view of the fact that Chase was surrounded with immunity clauses and its duties as respect this elimination provision were substantially nominal, is it your experience as a trust officer—don't you find that Depositors like the American Depositor Corporation and other similar persons eagerly seek the name of institutions like Chase Bank to put on their circular list?

A. Well, I think that has been done, Professor.

Q. From the point of view of the person who is selling the security, the name "Chase" on the circular has sales value, hasn't it?

A. Well, if I were the buyer, it would not have any sales value.

Q. Why not?

A. Because it wouldn't mean anything more to me than they are the trustee. It would not cause me to buy the securities.

Q. Well, that was necessarily my point, whether or not it would cause people to buy the securities, but to have the name of a prominent institution on its circular would tend, would it not, to inspire confidence in the people who were approached to buy securities; that this was a sound, efficient organization, respectable?

A. Well, it might in the sticks.

Some sponsors used the designation "trustee," even though the trust agreement specifically stated that a trust was not intended to be created. Diversified Trustee Shares, Series C, over \$40,000,000 of whose certificates were sold to the public,¹⁵ used the designation "trustee" throughout the trust agreement and had the certificates signed by the bank as "trustee," although the agreement specifically provides that nothing in the agreement or in the certificate "shall be deemed to create any trust in the Trustee or in the Depositor in the said deposited shares, securities, and/or property."¹⁶

¹³ Subsequently the sponsors were able to secure another trustee, Farmers' Loan and Trust Company, which accepted the designation "trustee." (Id., at 4994.)

¹⁴ Public Examination, Ross Beason & Co., Inc. Group, at 11177-8.

¹⁵ See Ch. III, Organization and Growth of Fixed Investment Trusts, p. 31, *supra*.

¹⁶ Trust agreement for Diversified Trustee Shares, Series C, dated September 5, 1929, Article II, Section 1, which provided that "Notwithstanding the registration of the stock in the name of the Trustee, or its nominee, and the designation throughout this Agreement or in the Certificates of the depository of the stock and/or securities, as 'the Trustee,' the absolute ownership of all stocks, securities and/or property deposited hereunder shall be vested in the respective Certificate holders in proportion to their holdings of Certificates and nothing herein or in the Certificates contained shall be deemed to create any trust in the Trustee or in the Depositor in said deposited shares, securities and/or property." (Reply to the Commission's questionnaire for this trust, Exhibit A.) See Ch. VI, The Trust Agreement, p. 97, *infra*.

The trust agreement thus expressly negatives the existence of a trust and thereby denies to investors the protection that they thought they had secured when they purchased a trust certificate, signed with the name of a leading bank as trustee. The advertisements also set out the name of the bank in large type as trustee.¹⁷

IV. SIGNATURE OF THE TRUSTEE

Practically all the certificates of the trusts sponsored by the leading sponsors were signed by the trustees. Stress was placed in the sales and publicity material on the fact that the trustee issued the trust certificates which were delivered to the investor. To a certain extent, the investor was led to believe that these certificates were the obligations of the trustee. For example, the offering circular for Corporate Trust Shares featured the name of the trustee prominently near the top in heavy black type:¹⁸

Certificates Issued by THE EQUITABLE TRUST COMPANY OF NEW YORK, Trustee and Countersigned by AMERICAN DEPOSITOR CORPORATION, Depositor.

Mr. Lober of the Manufacturers Trust Company testified:¹⁹

Q. You sign these trust certificates. The trustee's name appears at the bottom of the certificate.

A. That is my recollection.

Q. So that in form that would appear to be an obligation of the trustee. You issue such and such a trust certificate, and then at the bottom "Chatham Phoenix National Bank, Trustee."

A. Correct.

V. SELECTION OF WELL-KNOWN BANKS AS TRUSTEES

The investor in fixed trust shares, not unlike the purchaser of corporation bonds, relied on the trustee for adequate protection.²⁰ As a consequence, the reputation and the size of the trustee was a potent factor in inducing the prospective investor to purchase the trust shares. All the banking institutions which were trustees for the largest num-

¹⁷ According to the British Report of the Departmental Committee appointed by the Board of Trade, 1936, London (1936), p. 17, misleading use was also made of the word "trustee" in England: "Although the names of the Trustees frequently appear in large print in the advertisements the responsibility which they assume is limited. But the strict limits of their responsibility are disclosed only to the searcher after truth who procures and reads the Trust Deed. In the literature of some recent Unit Trusts the Trustee is described as 'Custodian', but it has been suggested to us that early advertisements were read to imply that the Trustees assumed wider responsibilities from which the Trust Deeds, in fact, relieved them."

¹⁸ Public Examination, Ross Beason & Co., Inc. Group, Commission's Exhibit No. 1084.

¹⁹ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7525.

²⁰ See the Report of this Commission on the Study and Investigation of the Work, Activities, Personnel, and Functions of Protective and Reorganization Committees, Part VI, p. 3f.

ber of trusts were located in New York City and most of the fixed trust business was concentrated in a few of these New York institutions.²¹

This practice of securing the services of well-known trustees for issues of corporation bonds was discussed by the Court, in the case of *Hazzard v. Chase National Bank of the City of New York*.²²

* * * When the obligor selected the bank to act as trustee, it was unquestionably influenced by the size and financial strength of the bank. Similarly, purchasers of bonds must have been influenced by the fact that the trustee of the indenture was a huge institution like the Chase National Bank. As was stated by Mr. Posner in 42 Harvard Law Review, p. 199: "A growing reliance has come to be placed by investors upon the trustee, usually a banking corporation, so that the standing of the trustee has become, in a measure, a certificate of the mortgagor's standing, and serves to 'encourage the sale of securities' and give 'tone' to the obligation.'"

The same author also states, at p. 239: "* * * the trustee's reputation and command of public confidence are definite factors in fostering the sale of securities. As early as 1881 it was stated that 'the salability of the bonds depends in no inconsiderable degree upon the character of the persons who are selected to manage the trust. If they are of well-known integrity and pecuniary ability, the bonds are more readily sold than if this were not the case. It is natural that it should be so.' (From the opinion in *Merrill v. Farmers'*

²¹ The following table shows that trusteeships of 102 fixed trusts were distributed among 7 trustees:

TABLE 11.—Trustees of fixed trusts, 1927-35

Name of trustee	Original trustee only	Successor trustee	Trustee at Dec. 31, 1935
Bank of America N. A. ^a	13		
Central Hanover Bank & Trust Co.....	1	1	13
The Chase National Bank of the City of New York.....		4	15
City Bank Farmers Trust Co.....		15	20
Continental Bank & Trust Co.....		7	11
Empire Trust Co.....	5	2	26
Guaranty Trust Co.....	1	1	9
Manufacturers Trust Co.....	2	3	8
Total.....			102

^a Trust business acquired by City Bank Farmers Trust Co. in November 1931.

The following table shows the geographical distribution of 69 trustees of fixed trusts (including original and first and second successor trustees):

TABLE 12.—Location of trustees of fixed trusts, 1927-35

City	Number of trustees	Number of trusts	City	Number of trustees	Number of trusts
Baltimore.....	1	2	Jersey City.....	3	5
Boston.....	3	11	Kansas City, Mo.....	1	1
Bridgeport, Conn.....	1	1	Los Angeles.....	2	5
Chicago.....	7	25	New York City.....	17	153
Cincinnati.....	1	1	Pasadena, Calif.....	1	1
Cleveland.....	2	2	Philadelphia.....	4	9
Dayton, Ohio.....	1	1	Racine, Wis.....	1	2
Denver.....	3	3	St. Louis.....	11	2
Des Moines.....	1	1	San Francisco.....	1	1
Detroit.....	5	21	Spokane, Wash.....	1	1
District of Columbia.....	1	1	Wilmington, Del.....	1	1

²² See Ch. IV, The Depositor, p. 63, supra and this chapter, pp. 76, 86.

Loan & Trust Co., 24 Hun. 297, 299.) An investor today places quite as much dependence upon the standing of the trustee as he did when the court made this declaration * * *."

That the name of a well-known bank or trust company was an important selling argument for the fixed trust shares was unanimously conceded. Edward B. Twombly, former chairman of the board of directors of Insuranshares Corporation, stated:²³

Q. * * * In connection with the sale of these certificates, it is always an effective sales point if you can have the name of a reputable bank on the certificate with the designation of trustee next to it; isn't that so, Mr. Twombly?

A. I should think that it would be better to have a reputable one than a disreputable one.

Q. I mean, if you can't get a reputable one, you take a disreputable one, as long as you can have the name of a bank. That is a pretty effective talking point for the salesmen, isn't that so?

A. I think the assurance that the securities are in responsible hands is obviously important. That as from the sale angle as well as the standpoint of the sponsoring house—

* * * * *

Q. But if you can have a certificate with the name of a bank, and the designation of trustee to that, it has a certain connection in the public mind which is desirable as far as the sales campaign is concerned.

A. I don't dispute that at all.

Frederick E. Lober, vice president of the Manufacturers Trust Company, testified to the same effect:²⁴

Q. * * * Do you think the fact that people selling fixed trust shares can go out to the prospective investor and say, "Now here we have the Manufacturers' Trust Company as our Trustee"—do you think that that would influence the prospective investor in a favorable way?

A. From my experience generally, on any security which a bank acts as trustee, or transfer agent and registrar, I think that the fact does have some bearing on the sale of securities. That has been my experience.

Q. In other words, you think that it is a decided factor to be able to say that "the Manufacturers' Trust Company, you see, is the trustee of our securities," rather than the "Third National Bank of Squeedunk."

A. I think it is a helpful factor; yes, I do.

Similar testimony was given by Francis H. Shields, vice president of the Pennsylvania Company for Insurances on Lives and Granting Annuities, of Philadelphia, the trustee for all the fixed trusts sponsored by Transcontinent Shares Corporation:²⁵

Q. Mr. Shields, I don't know whether you have any ideas on this or not, but do you consider that the fact that the Pennsylvania Company's name as trustee for these trusts is of some sales value to the certificates?

A. I would not know just how to answer that question, Mr. Carver. My own individual opinion is this: That the fact that in any investment trust the securities are in the custody of a corporate trustee; that the income is directed by a corporate trustee and is disbursed by it in accordance with the terms of

²³ Public Examination, Allied General Corporation, at 4984-5.

²⁴ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7513.

²⁵ Public Examination, Transcontinent Shares Corporation, at 13775-6.

the trust agreement, is a factor which might very readily aid in the salability of the investment trust plan, because it tends, it seems to me, to assure the depositor, or the investor, I should say, of the safety of the corpus in which his funds are to be invested.

Q. So that if a salesman could say to an investor: "Well, the Pennsylvania Company for Insurance on Lives and Granting Annuities is the Trustee," that would be a more valid sales argument in the normal course of events than if it mentioned some unheard-of bank in some small town?

A. I would say that it would be a better sales argument if the Pennsylvania Company were named as trustee than if I were named as trustee.

Q. Well, would you say that the same thing would apply as between the Pennsylvania Company and some very small and unknown bank?

A. Yes; I think that is true.

Hayward A. Hibberd, vice president of The Chase National Bank of the City of New York, trustee for the various series of Corporate Trust Shares, expressed substantial agreement with these views:²⁶

Q. Before we get into some more specific questions, I ask you, Mr. Hibberd, to what extent do you believe the name of a prominent, we will say, New York Bank or trust company, an institution such as the Chase National Bank, contributes to the selling value of a trust share?

A. I am rather inclined to think it does contribute to the selling value of a trust share in the mind and in the eyes of a small investor. That is simply my guess, of course.

Q. That is your personal opinion?

A. Yes.

Q. You think that the Chase National Bank as trustee leads the investor to think that he has got something a little better perhaps, than if he had a small-town bank?

A. Possibly so.

Q. I have here two certificates which were submitted to the Commission by the American Depositor Corporation. These are the certificates for Corporate Trust Shares, and I call your attention to the fact that on those certificates the name of the Chase National Bank appears as the issuer of this certificate. Is that correct?

A. It does.

Q. And that is also true for the certificate for the Corporate Trust Shares of the accumulative series? Is that correct?

A. Yes.

VI. FINANCIAL QUALIFICATIONS OF TRUSTEES

With reference to the financial qualifications of trustees, trust agreements of several fixed trusts prescribed requirements with respect to successor trustees. These conditions were usually that the trustee have a minimum capitalization, which ranged from \$2,000,000 to \$10,000,000; maintain an office, sometimes in the Borough of Manhattan, particularly in the case of trusts sponsored in New York City; and be a member of the Federal Reserve System.

Several states have prescribed requirements for trustees under fixed trusts. Wisconsin requires by statute that the trustee of a fixed trust

²⁶ Public Examination, Ross Beason & Co., Inc. Group, at 11109-10.

be a bank or trust company with a capital and surplus of at least \$1,000,000.²⁷ Alabama²⁸ and California²⁹ require the trustee to be either a bank existing under a state bank law or a national banking association existing under the laws of the United States.

Various sponsors of fixed trusts testified that minimum requirements as to capitalization and possibly membership in the Federal Reserve System were desirable as qualifications for trustees of fixed trusts.³⁰

VII. EXCULPATION OF TRUSTEES

All parties connected with fixed trusts apparently sought to release themselves from liability to investors. As has been indicated,³¹ the promoter insulated himself against personal liability to the investor by the formation of the depositor corporation, and by the broadest provisions in the trust agreement for exculpating the depositor from all liability except for acts involving wilful default or gross negligence.

In like manner, the trustee refused not only to assume any substantial responsibility to the investor but protected itself by limiting its duties with great particularity in the trust agreement and by including broad exculpatory provisions relieving the trustee from all liability except for acts involving wilful default or gross negligence.

The provisions for exculpation in the trust agreement creating Super-Corporations of America Trust Shares, Series A, are typical of those in the agreements for most fixed trusts.³² In summary, these provisions expressly exculpated the trustee from liability:

(1) For default or misconduct of an agent or attorney-in-fact, if such agent or attorney-in-fact was selected with reasonable care;³³

²⁷ Wisconsin Statutes, Ch. 189, Sec. 189.07 (4) (e), effective July 25, 1933. See Appendix J.

²⁸ Rules of the State Securities Commission of Alabama effective April 15, 1932, Rule 14, Sec. 2. See Appendix J.

²⁹ Rules and Regulations of the Division of Corporations, Department of Investment, effective December 1, 1932, Ch. 20, Sec. 1. See Appendix J.

³⁰ Public Examination, Diversified Trustee Shares, Series A, B, C, and D at 7508-12; and Public Examination, Ross Beason & Co., Inc. Group, at 11111.

³¹ See Ch. IV, The Depositor, p. 61, *supra*.

³² Trust agreement for Super-Corporations of America Trust Shares, Series A. (Reply to the Commission's questionnaire for this trust, Exhibit B.)

For a discussion of exculpatory provisions generally, their occurrence, effect, and legal validity, see Report on the Study and Investigation of the Work, Activities, Personnel, and Functions of Protective and Reorganization Committees, Securities and Exchange Commission, Part VI, pp. 67 to 70.

³³ Although trustees of fixed trusts were in all cases corporations and therefore conducted all their activities through agents or employees, most trust agreements contained provisions exculpating the trustee from liability for acts of agents and employees. Francis H. Shields, vice president and trust officer of the Pennsylvania Company for Insurances on Lives and Granting Annuities, trustee for the trusts sponsored by Transcontinent Shares Corporation, testified (Public Examination, Transcontinent Shares Corporation, at 13795-6):

Q. * * * I am just trying to get at what is in mind here: The trustee is certainly not going to deliberately and by corporate resolution commit an act of bad faith, is it?

A. Certainly not.

Q. The only way it could do that is through its employees, isn't it?

A. Yes, sir.

Q. And it is completely exonerated from the acts of its employees, as long as they were selected with due care when they were selected.

A. Yes, sir.

(2) For any action taken under trust agreement in good faith in reliance on any vote, demand, reorganization plan or document believed to be genuine and executed and delivered by the proper party;

(3) For reliance on advice of counsel and upon statement of accountants, statisticians, brokers, and other persons believed in good faith to be competent on the matter in which they are consulted or for advice or information furnished by depositor on any constituent companies;

(4) For reliance on any certificate as to fact signed by certain officers of depositor as proof of such fact;

(5) For any action taken or omitted in good faith or for anything except the trustee's own wilful misconduct or gross negligence;

(6) To account to holder of certificates with respect to monies or property;

(7) For action in connection with management of deposited property; conclusive reliance being permitted on opinion of counsel as to duties.

In addition to exculpation in the foregoing respects, the trustee was expressly relieved from any obligation:

(1) For validity of trust agreement or due execution thereof by depositor;

(2) For validity of endorsements on underlying securities;

(3) For inability to perform its duties under the trust agreement;

(4) To act in case of mergers, consolidations, or reorganizations of underlying companies;

(5) To appear in, prosecute, or defend any action unless indemnified;

(6) To appear in any judicial proceedings in connection with the trust agreement, unless requested to appear by a certificate holder and indemnified against loss;

(7) For assessments, taxes, or other governmental charges against deposited property, income therefrom, or against the trustee.

Although the attorneys representing the trustees incorporated the broadest exculpatory provisions in trust agreements for the protection of their clients,³⁴ investors, who by the purchase of the trust shares became a party to the trust agreement, did not, of course, have such representation at the time the agreement was drawn. Frederick G. Curry, assistant vice president of City Bank Farmers Trust Company, trustee for some of the trusts sponsored by Distributors Group, Incorporated, testified:³⁵

Q. By the way, who draws up these exculpatory provisions?

A. I should say that was a product of experience, and that the attorneys put in such clauses as they think advisable, dependent upon the circumstances of the trust involved.

Q. And in Section 10.06 [of the trust agreement for Cumulative Trust Shares] it says the trustee shall not be liable for any action taken or omitted by it in good faith under this agreement, but shall be liable only for its own wilful default or negligence.

And there again, I take it, is an attempted freedom from the liability of negligence, isn't it?

³⁴ Hugh Bullock, vice president of Calvin Bullock, testified that the primary reason for the inclusion of provisions exculpating trustees was that trustees insisted on their inclusion. Mr. Bullock testified (Public Examination, Calvin Bullock Trusts, at 3824-5):

A. The reason, Mr. Smith, is that it is very hard to find a trustee that is willing to consent to additional burdens of responsibility. Such a one might be found. His fee might be exorbitant, and for the fee customarily paid in the case of unit trusts that have come to my attention in the field, no trustee accepted any more responsibility than in general you find in our four unit trust indentures.

³⁵ Public Examination, Distributors Group, Incorporated, at 10388-90.

A. Why not look at it the other way, that there is no guarantee of the successful consummation under that.

Q. It is a freedom from liability for negligence, isn't it?

A. I should say it might be.

Q. You are familiar with the case in which the bank was held exculpated because the trust indenture provided that the trustee would be liable only for gross negligence? [*Hazzard v. Chase National Bank of the City of New York, supra.*] No

A. I think I am familiar with what you have in mind.

Q. Wasn't this drawn up for the same purpose?

A. I assume that is all put in there for a very definite purpose in the minds of the attorneys, to protect their clients—and we happen to be that client.

* * * * *

Q. And who at the time this was drawn up was there in order to protect the investors' interests as far as exculpation was concerned?

A. There are many things that protect the investor: One is that you are started with a solvent and decent depositor corporation, with a fixed purpose. Secondly, getting a good and reputable trustee, whose life may reasonably be figured to extend over the period of the trust.

Q. You are familiar with the fact that the depositor and the trustee both have interests which may be antagonistic to the interests of the investor, and when it comes to the investor attempting to hold the trustee liable, these exculpatory clauses are the things which prevent him, if he wants to do so. Now, he has no say in the creation of the agreement, does he?

A. No; and I don't know anybody that forces him to buy; but that is the old academic argument * * *.

Mr. Shields contended, however, that the trustee would not take advantage of the protection afforded by the trust agreement.³⁶ Hayward A. Hibberd, vice president of The Chase National Bank of the City of New York, also stated that, despite the exculpatory provisions, the trustee would, as a good business institution, protect the investor against great misuse of power.³⁷

³⁶ Mr. Shields testified (Public Examination, Transcontinent Shares Corporation, at 13796-7):

Q. So that not for a moment—I don't say that the Pennsylvania Company would take advantage of these things; I don't know; but if it should, and if the situation should come up, the Pennsylvania Company would be in the position where it could go into court and say, "We are here free from any responsibility because we have freed ourselves from responsibility by the solemn instrument which created this trust," isn't that a fact?

A. Well, of course, I suppose it is a fact that the Pennsylvania Company could go into court and say that, but it is extremely unlikely that the Pennsylvania Company would.

Q. You think it is extremely unlikely that a company of the character of the Pennsylvania Company would set up a legal defense where it was held for a substantial amount of money?

A. No; I don't mean to say that, but I mean to say that I think that in all probability if the loss were to occur as a result of any misconduct on the part of one of our title holders, that we would in the first place make good that loss, and in the second place we would be compensated by insurance.

³⁷ Mr. Hibberd testified (Public Examination, Ross Beason & Co., Inc. Group, at 11163-4):

Q. * * * coming back to the elimination provision that Mr. Schenker was mentioning: if your Depositor misuses that power in a way that falls short of wilful misconduct, against whom would the certificate holder have a remedy?

A. No one that I know of; but I really think that the Chase Bank would have the American Depositor Corporation at its office quite frequently if it was evident from the face of things that there was a great misuse of the power granted the American Depositor Corporation.

Q. But as I read this indenture, the Chase Bank would be under no obligation to do anything.

A. That is so, but I think as a good business institution it would do that.

The protection afforded the investor who purchased trust certificates on the faith of the trustee's name may be illusory. In the case of *Hazzard v. The Chase National Bank of the City of New York*³⁸ referred to previously,³⁹ a trust agreement contained provisions for exculpation similar to the ones in the agreements for fixed trusts. The defendant bank was a trustee under an indenture of trust executed by National Electric Power Company, one of the companies of the Insull system, covering an issue of \$10,000,000 of its debentures. As security for the debentures, common stocks of four utility companies were deposited. The trust indenture permitted substitutions in securities on the condition that an earnings certificate be submitted by the obligor to the trustee showing that the amount of earnings applicable to interest on the debentures from all of the collateral for a period of 12 consecutive calendar months within the 15 months immediately preceding the date of the application for such substitution, was at least equivalent to twice the interest requirements for one year on all bonds outstanding on the date of application.

Under the terms of the indenture, the trustee was exculpated from any act, neglect or misconduct of any agent or attorney if reasonable care had been exercised in their selection and from all liability except that arising from its own gross negligence or bad faith. The trustee was also protected in acting on any certificate or other instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Finally, on any application for the execution of any release, the certificates required to be delivered to the trustee could be received by the trustee as conclusive evidence of any fact or matter set forth therein. Before granting any such application, the trustee was not bound to make any further investigation into the matters stated in such certificate, but it could make an independent inquiry, if it so desired.

Under these conditions an employee of the trustee permitted substitution of collateral, which later became worthless, for valuable collateral which had been originally deposited under the terms of the trust indenture. In permitting this substitution he relied on an incorrect earnings certificate submitted by the borrower.

Suit was brought by some of the owners and holders of the debentures against the trustee in an action alleging bad faith and gross negligence on the part of the latter in permitting the substitution of the collateral which later became worthless. The trustee pleaded, *inter alia*, in effect, that the provisions of the indenture exculpating it from liability for all acts except those done in a grossly negligent manner or characterized by wilful misconduct, released it from liability.

The Court held that the provisions for exculpation released the trustee from any liability to the owners of debentures because the indenture permitted the trustee to accept the earnings certificate as conclusive evidence of any fact or matter therein set forth.

The Court stated that its obligation to sustain these provisions appeared to be indicated by the law but took the opportunity to state

³⁸ See Ch. IV, *The Depositor*, p. 63, *supra*.

³⁹ See this chapter, pp. 76, 80, *supra* and p. 98, *infra*.

its views of the situation and condemned such provisions strongly.⁴⁰

The court, concluding its opinion, stated (p. 569) :

The facts of this case show, perhaps as clearly as can be imagined, how utterly unjust to the investing public is the modern trust indenture. Prospective investors are unquestionably induced to purchase debentures, to a great extent, by the name and prestige of the trustee, which are capitalized by the obligor seeking financing, in order to sell its securities. It is safe to assume that many investors in these debentures of National Electric Power Company were led to purchase them, in large measure, by the fact that the Chase National Bank, or its predecessor, with all of its power and prestige in the financial community, was named as trustee. While it is true that our courts have, unrealistically, held purchasers to a knowledge of the terms of the indenture, the fact cannot be avoided that seldom, if ever, is the indenture read by such purchasers. It is, indeed, doubtful whether they understand that they should read it, or whether reading it would lead to comprehension of its significance. Reliance is placed almost completely upon the belief that the experience, power, financial acumen and integrity of the trustee will serve as a protection. Nor does it appear that

⁴⁰ The opinion, in part, stated (Id., at 564) : "It is clear that if it were not for the terms of the indenture, the defendant could not escape the conclusion that it was negligent toward its bondholders. If the relationship between this so-called trustee and these plaintiffs were the ordinary common law fiduciary relationship, and if the trust instrument did not exempt the defendant from every duty of making reasonable inquiry, the acts of the trustee would be a distinct violation of the well-recognized obligations arising from such relationship. It is elementary that a trustee owes to its fiduciary at least the duty of exercising the same care and prudence that a reasonable man would exercise with respect to his own property. Without going into all of the details of the evidence, the conclusion is irresistible that, apart from the general and specific exculpatory clauses, the defendant was guilty of lack of reasonable care in accepting these substituted securities without further investigation, with all of the knowledge which is attributable to it through its vice president Makepeace, and through its other officers and investment files."

The Court also stated (Id., at 565-6) : "With this trust indenture, and the exculpatory clauses, thereof, however, a different picture is presented. Similar exculpatory clauses have been upheld time and again as valid and not contrary to the public policy of this state. *Benton v. Safe Deposit Bank of Pottsville*, 255 N. Y. 260, 174 N. E. 648; *Green v. Title Guarantee & Trust Co.*, 223 App. Div. 12, 227 N. Y. S. 252, affirmed 248 N. Y. 627, 162 N. E. 552; *Hunsberger v. Guaranty Trust Co. of New York*, 164 App. Div. 740, 150 N. Y. S. 190, affirmed 218 N. Y. 742, 113 N. E. 1058; *Greene v. Continental Bank & Trust Co. of New York*, 267 N. Y. 519, 196 N. E. 559. In the Benton Case, the duty of the trustee was held to be strictly measured and limited by the agreements contained in the indenture. The court referred to the slight financial remuneration which the trustee bank received in the transaction, and came to the conclusion that 'the bank was merely prudent and cautious in limiting its liability and defining its duties.' The defendant here not only generally restricted its liability to gross negligence and bad faith, but practically in every way and at every turn, specifically limited and prescribed its duties, obligations, and responsibilities. For example, section 9 of article 15, above quoted, protected the defendant in acting upon any certificate or other paper or document believed by it to be genuine. The same section gave it protection in respect of any action taken by it pursuant to the opinion of counsel. The succeeding section provided that certificates accompanying applications for release of securities 'may be received by the trustee as conclusive evidence of any fact or matter therein set forth * * * not only in respect of the facts, but also in respect of the opinions therein set forth.' The same section relieved the trustee in specific terms from any duty 'to make further investigation into the matters stated in any such resolution, certificate, etc. The defendant in the case at bar is protected by the trust agreement from any liability in relying, as he did, upon the certificates furnished. As pointed out in 42 Harvard Law Review, 198, at page 215, in discussing the ordinary clauses in trust agreements for substitution of security, 'such releases and exchanges are usually regulated by reports and certificates of officers, appraisers, and the like, and generally speaking, afford full protection to the trustee who acts thereon in good faith even though loss be occasioned by the release.' "

repeated warnings by the courts will cause more persons to read indentures in the future than in the past. The untrained investor unquestionably depends upon the great financial institution named as trustee to supply the skill and the watchfulness and the prudence and the experience which he himself lacks. The cruel fact is that not only is the trustee not required to exercise that greater skill and watchfulness and prudence and skill which it has, but it is even absolved from exercising merely the ordinary care which a single individual should exercise as to his own affairs.

Hugh Bullock, vice president of Calvin Bullock, felt that the exculpatory clauses for trustees were too broad.⁴¹ Henry A. Theis, vice president of the Guaranty Trust Company of New York, testified that he thought trustees should be held liable for ordinary negligence.⁴²

VIII. COMPENSATION OF TRUSTEES

One of the reasons assigned for the limitations on duties and liabilities of trustees was the fact that the rate of compensation of trustees was inadequate to warrant the assumption of a greater degree of duty and responsibility. Mr. Hibberd testified at the public examination of the Ross Beason & Co., Inc. Group of trusts:⁴³

Q. So that even under the modified series, the trustee had no power or discretion to determine which security should be eliminated and which security should not be eliminated?

A. That is so.

Q. In that respect, of course, it is substantially different from the position of a trustee, shall we say, under a will, for instance, where he does have the power to substitute securities provided they come within the definition of qualified securities?

A. That is so.

Q. Maybe the answer is we ought to have a new designation for that.

A. Another answer is the corporate trustee has to assume those duties. If he did so he would have to surround himself with experts and get a tremendous fee and whether a corporation would be willing to pay it I don't know.

Mr. Hibberd further testified:⁴⁴

Q. You take a trust, inter vivos, it [the trustee] has the power of elimination and the power of substitution, hasn't it?

A. Yes.

⁴¹ Mr. Bullock testified (Public Examination, Calvin Bullock Trusts, at 3830-1):

Q. And in retrospect do you think that these exculpatory provisions are desirable?

A. I think they are in part. I think they have gone too far.

* * * A. I agree in some measure with the conclusions, as I recall them, in the report which you have referred to. On the other hand, you have to take into consideration the practical factors, such as the cost of administering a trust, the responsibility that the trustees have to assume, and it is a matter of striking the balance somewhere. I also doubt very much whether all of these provisions would hold water.

* * * A. By "all of these," I am not referring to the Bullock Trusts particularly; I am talking of these general types of provisions.

⁴² Public Examination, Distributors Group, Incorporated, at 10426. For a discussion of exculpatory clauses as applied to North American Trust Shares, 1953, see the testimony of Mr. Theis, id., at 10426-38.

⁴³ Public Examination, Ross Beason & Co., Inc. Group, at 11134-5.

⁴⁴ Id., at 11153-6.

Q. Those are the really important powers?

A. Yes, sir.

Q. You don't have any of those?

A. No, sir.

By Commissioner DOUGLAS:

Q. Why weren't they included here?

* * * * *

A. To include those, it would mean the trustee if it took the business would have to require a very large fee.

Q. Why?

A. Because it couldn't afford to take it on this basis, because of the tremendous responsibility, and the tremendous research that would have to be done.

* * * * *

Q. Why is it essential to have the depositor rather than the trustee control the exercise of that power of elimination? That is really my question.

A. The real answer to that, from the trustee standpoint, is that it would cost the trust too much money for the trustee to undertake that.

The following table (Table 13) shows the sums paid to trustees of 11 of the larger fixed trusts. (See table on next page).

A. Source of Compensation of Trustees

The fees of the trustee covered general services under the trust agreement and certain special services in connection with the delivery, redemption, or exchange of trust certificates. These fees to the trustee may be provided for from three sources: (1) the depositor, (2) the sponsor, or (3) the trust property. Compensation of the trustee is ordinarily referred to in the trust agreement and customarily takes the form of a provision that the depositor has the obligation to pay trustees' fees at such rates and upon such terms and conditions as may be agreed upon from time to time between the depositor and the trustee. Some trust agreements, although few in number, specify the rates of payment. Other trust agreements, also few in number, do not put upon the depositor the obligation of paying the trustee but rather impose that liability entirely upon the income or deposited property of the trust.

Of the 56 trust agreements studied, 36 agreements provided that the depositor was to pay all the fees of the trustee and administrative expenses, and that no lien was to attach to the income or corpus of the trust except for those legal expenses incurred in defense of the trust agreement; 6 agreements provided that the depositor was to pay the trustee's fees and expenses of administration, but the income or corpus was impressed with a lien if the depositor failed to pay or to the extent that the depositor failed to pay such items; 8 agreements provided that the trustee's fees and expenses of administration were to be paid out of income and/or deposited property; 2 agreements provided for payment out of a special fund, which the depositor guaranteed and provided against a lien on deposited property; 1 agreement provided that the trustee's fees were to be paid out of income but no lien was to attach to deposited property, and 3 agreements were silent on the subject.

TABLE 13.—Trustees' fees and related data for 11 fixed and semifixed investment trusts

	North American Trust Shares		Diversified Trustee Shares, Series D	Corporate Trust Shares			United States Electric Light & Power Shares, Inc.	
	1953	1955, 1956		Original series	Accumulative Series and Accumulative Series (Modified)	Series AA and Series AA (Modified)	Series A	Series B
Date of inception of the trust.....	Jan. 2, 1929	July 1, 1931	Apr. 15, 1931	Jan. 1, 1929	July 1, 1931	July 31, 1931	Apr. 23, 1927	Feb. 1, 1930.
Contemplated life of the trust.....	25 years	25 years	15 years	25 years	20 years	20 years	20 years	20 years.
Total fees paid, excluding settlement, if any.	\$684,350	\$117,329	\$68,666	\$179,050	\$381,385 ^a	\$226,354 ^a	\$83,487	\$76,825.
Total sales to public.....	\$184,891,572	\$58,962,339	\$12,516,401	\$144,995,823	\$31,213,433	\$26,356,148	\$58,313,822	\$47,965,802.
Period expired from inception until fee settlement.	6 years	5 years	No settlement	No settlement	No settlement	No settlement	6 months	No settlement.
Amount of fee settlement.....	\$50,000	\$250,000 ^a					For general administration, ^b \$15,000.	
Number of years unexpired at time of fee settlement.	19 years	20 years					19½ years	

^a The trustee in these trusts was paid in trust shares. The figure given is, therefore, an estimated one based on small cash fees, plus the number of shares given multiplied by the average market value of the shares for the period of the trust to Dec. 31, 1935.

^b This was not a full settlement in the sense that the other trusts made settlements.

A general provision for the payment of the trustee's fee was:⁴⁵

The Trustee shall not be entitled to receive any compensation for its services, or reimbursement for expenses incurred by it hereunder, out of the deposited property except as in this agreement expressly provided, but may receive such compensation and reimbursement from the Depositor as may be agreed upon from time to time.

Pursuant to this type of provision contracts for the payment of fees were entered into between the depositor and trustee.⁴⁶

B. Time of Payment of Trustees' Fees

In North American Trust Shares, 1953, and the fixed trusts sponsored by Calvin Bullock and Super-Corporations of America Depositors, Inc., the trustees' fees, computed for the entire life of the trust, usually 20 years, were paid in advance. The "loading charge," which was included in the purchase price of trust certificates paid by the investor, covered the trustees' fees for the life of the trust.

An example of a trust which computed the trustee's fee daily was Collateral Equities Trust Shares.⁴⁷ The trustee daily charged to the currently distributable fund a supervisory fee of $1/730$ of 1% of the daily market value of the trust fund and, during leap years, $1/732$ of 1%. From this sum the trustee was entitled to receive for its services for receiving, holding, and disposing of the deposited property of the trust, one-fourth of the supervisory fee, and the depositor set over to the trustee this amount. In addition, the trustee received from the depositor 10 cents for every check sent out in connection with semiannual distributions.

In Trustee Standard Oilshares, Series A,⁴⁸ sponsored by Dwelly, Pearce & Company, Inc., of which the Empire Trust Company was trustee, the trust agreement provided for payment of the trustee's fees out of income of the trust by an annual charge of one-fifth of one percent of the market value of the deposited stocks and securities, the amount thereof to be the average of each underlying security issue held on the first day of every month and the value to be taken on December 31st of each year. The minimum charge for the trustee was \$1,000 per year.

C. Lump-Sum Settlement of Trustees' Fees

In the case of certain fixed trusts, depositors effected lump sum settlements for the fees contracted over the life of the trusts. For North American Trust Shares, 1953, the depositor, Distributors Group, Incorporated, had set up a reserve on its own books for trustee's fees.⁴⁹ On December 19, 1934, about three years after active

⁴⁵ Trust agreement for North America Trust Shares, 1953, Article VII, Sec. 1 (a). (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

⁴⁶ The schedule of fees provided by the various contracts between Distributors Group, Incorporated, and the trustees for its various trusts and the totals paid thereon are set out in Appendix I.

⁴⁷ Trust agreement for Collateral Equities Trust Shares, Article XI, Sec. 11.04. (Reply to the Commission's questionnaire for this trust, Item 18-a and Item 40-a.)

⁴⁸ Moody's Manual of Investments, Banks 1932, p. 2184.

⁴⁹ Public Examination, Distributor's Group, Incorporated, at 10406.

distribution of the shares had ceased, an agreement was made between Group Assets, Inc. (which had acquired all the assets of Distributors Group, Incorporated), the Guaranty Trust Company of New York, the trustee, and Distributors Group, Incorporated, the depositor, under which the depositor paid \$50,000 to the trustee for all trustee's fees due up to the termination of the trust and Distributors Group, Incorporated, in turn agreed not to issue any more trust shares.⁵⁰ The depositor, therefore, was released from its continuing liability for trustees' fees.

In the case of Cumulative Trust Shares and North American Trust Shares, 1955, 1956, and 1958, the trust agreements between the depositor and the trustee⁵¹ provided that, with the deposit of each unit of underlying securities or property with the trustee, either cash or trust shares in certain amounts were to be deposited to secure payments of the trustee's fees in the event the depositor failed to do so. By the end of 1935, the deposit to secure the payment of trustees' fees amounted to approximately \$750,000.⁵² On February 5, 1936, three escrow agreements were executed, providing that the sum of \$380,000 in cash or trust shares of the respective trusts was to be placed with The National City Bank of New York as escrow agent—\$300,000 for North American Shares, 1955 and 1956 and \$40,000 each for Cumulative Trust Shares and North American Trust Shares, 1958—with the provisions that the trustee would receive certain annual payments from the fund and, in addition, a fraction of the principal of the fund in which the numerator was one and the denominator the remaining number of years of existence of the trust. Provision was made for assignment to a successor trustee in certain events, but the depositor waived its right to remove the trustee and the trustee waived its right to resign.⁵³ As the result of this arrangement the sum of \$370,000 (difference between \$750,000 and \$380,000 required under the agreement) was unconditionally paid to Distributors Group, Incorporated, by the trustee.⁵⁴

D. The Lien of the Trustee

The trustee had, in many cases, a lien on the trust property and income thereof for expenses which arose in connection with the merger, consolidation, reorganization or sale of all or substantially all the assets of an underlying corporation where taxes and governmental charges were levied against the property, the income or the trustee.⁵⁵ In many trust agreements, a lien was imposed on the trust property for legal fees incurred in defense of the trust agreement or the trust.

⁵⁰ Id., at 10423 and Commission's Exhibit No. 989.

⁵¹ The original trustee of the first 3 trusts was Bank of America, N. A., succeeded in 1930 by the City Bank Farmers Trust Company. The City Bank Farmers Trust Company was the original trustee for the fourth trust.

⁵² Public Examination, Distributors Group, Incorporated, at 10370-5, and Commission's Exhibit No. 984.

⁵³ Public Examination, Distributors Group, Incorporated, at 10374-6, and Commission's Exhibits Nos. 984A, 984B, 984C, and 985.

⁵⁴ Ibid. and Commission's Exhibit No. 985.

Sponsors of some trusts stressed in sales literature the fact that the trustees did not have a general lien on deposited property for fees.

IX. TERMINATION OF TRUST BY TRUSTEES

Where the trustee's fees were not provided for in advance and the sales of trust shares came to an end, continuance of the trust became a liability to the depositor and the trustee. In many such cases, the depositor did not have assets to pay trustees' fees or discontinued its interest in the trust. As a consequence, these fixed trusts became "orphan" trusts. When questioned on this problem of abandonment of fixed trusts, Hayward A. Hibberd, vice president of The Chase National Bank of the City of New York, trustee for Corporate Trust Shares, testified:⁵⁶

Q. * * * The sales literature and the trust indenture said that the Depositor Corporation was to pay the trustees' fees.

A. That is so.

Q. Now, of course, that is a matter of vital consequence, is it not? Because, unless there was some assurance that the fees of the trustee were to be paid, the trustee would not function and then you would have virtually an "orphan" trust, without anybody to even exercise those obligations that the Chase National Bank had taken?

A. If we came to that condition? Are you asking whether the trustee would function or not? In other words, there was no money in sight for the trustee?

Q. That is right.

A. It is my opinion the trustee would continue to function, but——

* * * * *

Q. But [the trustees were] under no obligation to function? They were not an eleemosynary institution, were they?

* * * * *

A. I think they would be under a moral reason to do it.

Q. But there was no provision in the trust indenture which said that the trustee would exercise its duties and perform its functions under the trust indenture, even though it was not being paid, was there?

A. No.

⁵⁵ In fact, in the case of United States Electric Light & Power Shares, Inc., Trust Certificates, Series B, dated February 1, 1930, the trustee was given a lien as follows (Trust agreement for United States Electric Light & Power Shares, Inc., Trust Certificates, Series B, Article VIII, Section 1 (j)) (Reply to the Commission's questionnaire for this trust, Exhibit 18-A): "The Trustee shall be entitled to receive a reasonable compensation for all services rendered by it hereunder at a rate to be agreed upon in writing between the Trustee and the Depositor. The Trustee shall also be reimbursed for all expenditures (including fees and expenditures of legal counsel, appraisers, accountants, or other experts employed by it) incurred or disbursed by it under any of the provisions of this Agreement. Such compensation (to the extent that same is not paid by the Depositor) and such expenses shall be deducted from the income of the Deposited Property and shall be paid before any distribution shall be made from Net Income, and the Trustee shall have a lien therefor (anything herein to the contrary notwithstanding) upon the Deposited Property paramount to the rights and claims of the Holders of Certificates and the Depositor."

⁵⁶ Public Examination, Ross Beason & Co., Inc. Group, at 11190-1. See also Ch. IV, The Depositor, pp. 52, 54, 64-5, *supra* and Ch. XI, Realizing on Shares, p. 206, *infra*.

The liquidation of fixed trusts which were created between 1924 and 1935 had reached large proportions by 1935, especially of the smaller trusts. Of the 56 trusts for which public distribution was more than \$500,000, only 3 were liquidated by 1935; while of the 124 trusts for which public distribution was less than \$500,000, 74 were liquidated as of December 31, 1935. One of the principal reasons for this large percentage of liquidations of the smaller trusts was that the small amount of shares sold, frequently did not compensate the trustee for the amount of work involved and, in many cases, such trustees terminated the trusts and distributed the assets.

Chapter VI

THE TRUST AGREEMENT

The trust agreement which created the fixed trust was the instrument which set forth the rights and obligations between the depositor, the trustee, and the holders of trust certificates. Although the holder of the certificate was not a party to the agreement at the inception of the trust, he became a party by the purchase of the certificate. As a consequence, the investor was not, of course, specifically represented at the time of drafting of the agreement as were the trustee and depositors.¹

I. DRAFTING OF THE TRUST AGREEMENT

The trust agreement was devoted largely to provisions for the protection and exculpation of the depositor and of the trustee. The protection of the investor in the fixed trust was only incidental and depended largely on the obligations from which either the depositor or the trustee had not relieved or exculpated themselves.²

Alfred Jaretzki of Sullivan & Cromwell, counsel for Calvin Bullock, describing the origin of the exculpatory provisions in the trust agreement, testified:³

A. Well, put it this way:

Mr. Bullock outlined certain provisions that he wanted in the trust indenture.

Q. Yes.

A. And then left it to us to draft it. My recollection would be that those [exculpatory] provisions were not in his outline but were inserted by us. It may be after consultation with the trustee * * * [or] it may have been on our own initiative. I don't recall.

* * * * *

Q. I am interested in knowing whose idea it is that the depositor and the trustee should both have complete freedom from responsibility, or very limited responsibility.

A. Well, the idea is an old one. The application to this particular document was either mine or my associates. I don't recall now what the provisions were in the earlier indentures in this respect.

Q. Now, at the time this indenture was drawn up, there was nobody with whom you associated who represented the certificate holder, was there?

A. There were no certificate holders.

Q. There were no certificate holders, and I say there was nobody who represented them?

A. Correct.

¹ See Ch. IV, The Depositor, p. 61, supra.

² See Ch. IV, The Depositor, p. 61, and Ch. V, The Trustee, p. 83, supra.

³ Public Examination, Calvin Bullock Trusts, at 3826-9, 3832.

Q. So that it was just a matter of what you and Mr. Bullock thought was appropriate to go into a trust?

A. Correct.

Q. And you could have had anything in there, if you had wanted to, as long as you thought you could have sold it, couldn't you?

A. Well, it might seem so, but we had some limitations of conscience.

* * * * *

A (Interposing). Perhaps it is only fair to state that as far as the trustee is concerned, these provisions were in all likelihood either put in at his suggestion or in anticipation of the well known suggestions that emanated from trustees.

Frederick G. Curry, assistant vice president of the City Bank Farmers Trust Company, trustee for the later series of North American Trust Shares, testified to the same effect:⁴

A. I should say that was a product of experience and that the attorneys put in such clauses as they think advisable, dependent upon the circumstances of the trust involved.

* * * * *

A. I assume that is all put in there for a very definite purpose in the minds of the attorneys, to protect their clients—and we happen to be that client.

* * * * *

A. I assume that to be the fact that most exculpatory clauses go in on the advice of counsel.

II. LEGAL COUNSEL TO DEPOSITORS

Just as the sponsors of fixed trusts emphasized in their sales literature the fact that nationally known banks or trust companies were the trustees in order to aid national distribution of the trust shares,⁵ so apparently stress was placed in the circulars upon the fact that leading law firms had passed on all legal details in connection with a fixed trust. Although sponsors seemed to change the trustees for various trusts, sponsors of the larger trusts evidently seemed to retain the same law firms for all the trusts in their respective groups. As in the case of banks and trust companies, the majority of the law firms retained were located in New York City.⁶

III. RELATIONSHIP OF PARTIES TO A TRUST AGREEMENT

The trust agreement varied in different cases from an instrument creating a trust inter vivos to which the beneficiary (the certificate holder) was not specifically made a party, to an instrument creating an association with specific denial of the existence of a trust.

In the five trusts sponsored by Transcontinent Shares Corporation which publicly distributed in excess of \$25,000,000 of trust shares, the depositor and the trustee, The Pennsylvania Company for Insurances on Lives and Granting Annuities, were parties but the certifi-

⁴ Public Examination, Distributors Group, Incorporated, at 10388-94.

⁵ See Ch. V, The Trustee, p. 79, supra.

⁶ Appendix N contains a list of the firms which acted as counsel for the trusts for which questionnaires were filed by depositors.

cate holders were not mentioned as parties.⁷ In these trusts, the practice of a common law trust was maintained in this respect. On the other hand, the trust agreements for Diversified Trustee Shares, Series B,⁸ dated November 1, 1927, and for Diversified Trustee Shares, Series C,⁹ dated September 5, 1929, place legal title to the underlying property in the certificate holders. The agreement for Diversified Trustee Shares, Series C, expressly stated the agreement did not create any trust:¹⁰

Notwithstanding the registration of the stock in the name of the Trustee, or its nominee, and the designation throughout this Agreement or in the Certificates of the depositary of the stock and/or securities, as "the Trustee," the absolute ownership of all stocks, securities and/or property deposited hereunder shall be vested in the respective Certificate holders in proportion to their holdings of Certificates and nothing herein or in the Certificates contained shall be deemed to create any trust in the Trustee or in the Depositor in said deposited shares, securities and/or property.

Although this section seems to involve a contradiction in terms in the effort to avoid the creation of a trust, the certificate sold to the public was signed by the bank with the designation "trustee" after its name.¹¹

In some of the earlier trust agreements, the holder of the trust certificates was treated as both the settlor of the trust and as beneficiary thereunder. In the trust agreement creating Insuranshares Certificates, Series A-27, dated April 12, 1927, which, while not creating a fixed trust, was a model for many later trust agreements for fixed trusts, the certificate holders were described as "grantors and beneficiaries, individually and severally, of an express revocable trust."¹² In later trust agreements, however, the relationship of the parties was expressly set out as one based on a trust. For example, the trust agreement for Super-Corporations of America Trust Shares, Series A, provided:¹³

It is expressly understood and agreed by the parties hereto and each of them that it is their intention and the intention of each of them by becoming parties to this Agreement to create the relationship of trustee and *cestuis que trustent* between Straus National Bank and Trust Company of New York, or its successor trustee, and the holders from time to time of certificates for Trust Shares and that such holders by virtue thereof hold no relationship to the Trustee other than that of *cestuis que trustent* and hold only such rights as are conferred upon them as such *cestuis que trustent* hereunder * * *.

⁷ Questioned on the reason for this departure from the usual practice, Francis H. Shields, vice president of the trust company, could assign no reason therefor, but attached no significance to the form adopted. (See Public Examination, Transcontinent Shares Corporation, at 13803-4.)

⁸ Trust agreement for Diversified Trustee Shares, Series B, Art. II, Sec. 3. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

⁹ Trust agreement for Diversified Trustee Shares, Series C, Art. II, Sec. 1. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

¹⁰ Ibid. See Ch. V, The Trustee, p. 78, *supra*.

¹¹ See Ch. V, The Trustee, p. 79, *supra*, on the use of the term "trustee."

¹² Trust agreement for Insuranshares Certificates, Series A-27, p. 57; see also pp. 1 and 20. (Reply to the Commission's questionnaire for this trust, Part I, Exhibit No. 3.)

¹³ Trust agreement for Super-Corporations of America Trust Shares, Series A, Art. XI, Sec. 11.09. (Reply to the Commissioner's questionnaire for this trust, Exhibit B.)

IV. INTERPRETATION OF TRUST AGREEMENTS

The provisions of many of the fixed-trust agreements, based, no doubt, on the long evolution of trust indentures, were so prolix and involved that the ordinary investor could not decipher their meaning. It is generally recognized that investors are, in many cases, unable to understand provisions of indentures. This Commission, in its report on protective committees, stated:¹⁴

It is a matter of common knowledge that purchasers of securities seldom examine the terms of the trust indenture, although they are legally bound by its terms. Even if they did examine the indenture, the significance of its elaborate provisions would appear only to specialists. In some instances, indeed, it is so drafted that vital provisions apparently escape the notice of highly trained investment agencies.

So, too, the Court in the case of *Hazzard v Chase National Bank of the City of New York*,¹⁵ discussing the provisions of many of the indentures stated:

While it is true that our courts have, unrealistically, held purchasers to a knowledge of the terms of the indenture, the fact cannot be avoided that seldom, if ever, is the indenture read by such purchasers. It is, indeed, doubtful whether they understand that they should read it, or whether reading it would lead to comprehension of its significance.

* * * * *

The clauses permitting substitution are so astutely tucked away that the average layman would have the greatest difficulty in discovering them. Not only the average layman, but seasoned financial experts like those who publish Moody's Manual apparently overlooked the power of substitution, for until after the collapse of the system, Moody's Manual, in describing these bonds and the security behind them, never mentioned the power or possibility of substitution of collateral.

These same observations with respect to corporate indentures are equally applicable to the fixed trust agreements.¹⁶

¹⁴ See Report on the Study and Investigation of the Work, Activities, Personnel, and Functions of Protective and Reorganization Committees, Securities and Exchange Commission, Part VI, Trustees under Indentures, p. 3.

¹⁵ See. Ch. IV, The Depositor, p. 63, supra, and Ch. V, The Trustee, pp. 76, 80, and 86, supra.

¹⁶ An example of the problems of construction is the disagreement among William R. Terres, treasurer, Robert C. Walker, attorney, and Emlen S. Hare, former president of Transcontinent Shares Corporation as to the meaning of the trust agreement for some of the trusts of this depositor. The testimony of Mr. Hare was as follows: (Public Examination, Transcontinent Shares Corporation, at 13829-30. See Ch. VII, Deposited Property, pp. 122-3, infra, for a discussion of the reserve fund of these trusts):

Q. So that you did charge the load on the surplus or reserve fund?

A. No, sir.

Q. Well, this price make-up sheet indicates that.

A. No, we didn't. What happens there—

Mr. WALKER. Mr. Hare, there seems to be a difference of opinion on that.

Mr. TERRES. There is a load on surplus funds, and he is talking about the surplus amount in the make-up sheet. I think that you have it confused with sales made to the surplus account.

The WITNESS. That disappears through the repurchase of the shares, doesn't it? That does disappear.

You see what happens, the trustee gets that money, sir, and on which there has been 8 percent added, and then he turns around and buys trust share certificates, less 8 percent, so that just washes out, and am I not correct on that?

How can it be otherwise? Here I give the trustee—

Mr. WALKER. It does seem to wash out.

The WITNESS. It is a useless motion except for its mechanics, and it would be the same thing if you gave them a portfolio, and didn't give them any cash, except that you wouldn't have a surplus fund for those purposes.

V. THE TRUST CERTIFICATES

The trust certificate is the evidence of beneficial interest¹⁷ in the underlying securities and other deposited property, issued by the trustee to the depositor upon deposit of the unit and sold by the depositor through dealers to the investors.

The certificate usually contained an abridged statement of the rights incidental to the ownership thereof. The certificate was, in most cases, signed by the trustee and countersigned by the depositor, although some certificates omitted signature of the depositor and few were signed by the depositor alone. In the case of the earlier trusts, the trust agreement generally provided that the trust certificates were to be in bearer form. The majority of later agreements, however, provided for registration of the certificates in the name of the holder at his option. Attached to the certificates were coupons, generally also in bearer form, which the holder was to present to the trustee on the maturity date of the coupons and to receive therefor the amount of distributions available for each coupon. In some cases local paying agencies were established to permit the certificate holders to cash the coupons. Distributors Group, Incorporated, appointed local paying agencies in some of the larger cities of the United States.¹⁸ In general, the certificate holder was able to deposit his coupon with a bank for collection and, on payment thereof by the trustee, was credited with the distribution.

VI. EXPENSES OF OPERATION

Various types of expenses arose in connection with the operation of the fixed trust. First were the fees of the trustee which, as a general rule, were not set out in the trust agreement.¹⁹ Second, certain expenses might arise in connection with (a) assessments imposed on shares of underlying securities; (b) exchanges of underlying securities; (c) deposits of underlying securities with a protective committee; (d) assents to a plan in connection with a reorganization of an underlying corporation; and (e) taxes arising in connection with any of these transactions. In general, the trustee was directed not to deposit shares or assents to a plan if the trustee had information that sums would be required to be paid by the depositor or for taxes exceeding the sums to be received pursuant to the plan. If sums were required, the trustee was to sell the stock in question and use the proceeds to pay such sums payable by the trustee.

By Mr. CARVER [Counsel for the Commission]:

Q. Does that represent your idea, Mr. Terres?

Mr. TERRES. On sales to the surplus fund, it does.

Mr. CARVER. But on sales to the general public, it does not?

Mr. TERRES. That was my interpretation of the thing.

The WITNESS. We are all saying the same thing, but let me be clear——

Mr. CARVER. May I suggest that these gentlemen be permitted to consult together, and arrive at their joint conclusion in the matter, and then put it in the record?

Mr. SWIFT [the Examiner]. I think that is an advisable thing to do.

¹⁷ The certificate is also in effect a receipt for the deposited property. See Ch. II, Origin and Nature of Fixed Trusts, p. 5, *supra*.

¹⁸ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit F-5.

¹⁹ See Ch. V, The Trustee, p. 89, *supra*, for a discussion of trustee's compensation.

The third type of expense arose from taxes and charges. In the typical case, it was provided in the trust agreement that where taxes, charges, expenses, and counsel fees were incurred with respect to any action relative to such taxes and charges, the trustee was to be reimbursed and indemnified first from currently distributable funds, next out of the reserve fund, and then out of the net cash proceeds of sales of deposited property made after the termination of the trust agreement. In the event that amounts payable for taxes, assessments, expenses, and counsel fees sustained with respect to any action relating to such taxes and assessments (less the market value of the shares held and subject to assessment) exceeded the sum of (a) currently distributable funds then on deposit with the trustee; (b) reserve fund then on deposit with the trustee; (c) dividends then declared with respect to securities then held by the trustee; (d) market value of distributions of property other than cash declared with respect to securities then held by the trustee; and (e) market value of any property other than the stock units then held by the trustee, then the trustee could terminate the agreement without the consent of the depositor.²⁰

VII. VOTING THE UNDERLYING SECURITIES

With reference to voting of the underlying securities deposited with the trustee, the most common provision was that the trustee would vote the shares at the discretion of the depositor or would deliver to the depositor at his request proxies to vote the shares.

On May 7, 1931, the New York Stock Exchange required trusts which were on its "unobjectionable" list to provide for voting by holders of the equivalent of whole underlying shares of stock.²¹ The result of

²⁰ Cf. Trust agreement for North American Trust Shares, 1953. Article VII, Section 1 (g). (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

²¹ The requirements were as follows (see Appendix K): "Trust agreements, or agreements supplementary thereto, must provide that in each case where a trust certificate holder would be entitled, upon termination of the trust, to receive certificates for one or more full shares of deposited stock having a vote, there will be issued to him, upon request, an assignable proxy covering the number of full shares represented by his equity, excepting in approved cases where definite instructions as to the manner in which such shares must be voted in certain contingencies are prescribed in the trust agreement. No objection is made to the voting by the depositor or by the trustee of any deposited shares for which such proxies have not been requested. The depositor corporation should note that, in view of the fact that the right to vote may affect the nature of the deposited security in respect of which the vote is exercised, trust indentures may have to provide that the certificate holder who has destroyed the uniformity of his interest in the trust by exercising his right to vote shall be deemed to have terminated the trust in regard to his certificates. As an alternative to the foregoing, the Committee will approve an agreement by the depositor corporation providing that in any case where a substantial controversy has arisen between two or more opposing groups of stockholders of a company whose stock is held in the trust, or a substantial issue exists in connection with which the interests of certificate holders require that they be permitted to direct the voting of such stock, each certificate holder shall be entitled to file written instructions with respect to the voting of the stock held in the trust. Such stock shall be voted proportionately, in the manner directed by the several certificate holders, the depositor corporation, or the trustee, as the case may be, retaining the right to direct the vote of such proportion of the stock as shall not be allocable to certificate holders exercising this right to vote. In all cases, where, in the judgment of the trustee, or of the depositor corporation, the result of the vote may affect the nature, identity, or rights of the deposited stock, all of such stock held in the trust shall be voted as a unit in accordance with the instructions controlling a majority of the deposited stock. A sub-

these stock exchange requirements was that sponsors of trusts, association with which by a member of the New York Stock Exchange was to be unobjectionable, either caused the trust agreement to be amended or made independent arrangements for the delivery by the trustee of proxies to holders of underlying securities whose shares represented one full share or more of the underlying securities.²²

The certificate holders apparently did not avail themselves of this right and requests by certificate holders for proxies were rare. The right of holders of certificates for trust shares to vote underlying stock is thus apparently a theoretical right.

As to the vote of the depositor of the underlying stocks, sponsors have generally stated that they usually cast their vote in favor of the incumbent management of the underlying companies.²³ However, officials of one depositor testified that if they felt the management of an underlying company was "not doing its job properly" the depositor would vote against such management.²⁴

Whether the voting power of depositor corporations on the underlying securities was of sufficient size to influence the management or elections of the underlying companies is conjectural, particularly in view of the fact in most of the fixed trusts only stocks of large corporations with many shares outstanding were included in the portfolios of such trusts.²⁵ The total sales of fixed trust shares, by the end of 1935, had not reached a point where voting control of the underlying securities by reason of the depositors' control of the underlying securities was a problem.

stantial controversy or issue shall be deemed to exist when so determined by the depositor corporation, the trustee, or the New York Stock Exchange, acting through any of its Committees."

²² Cedric H. Smith, vice president of American Depositor Corporation, testified (Public Examination, Ross Beason & Co., Inc. Group, at 10990-1) :

Q. The Depositor Corporation was also vested with the sole right to vote the shares of stock in the underlying companies; is that right?

A. That is correct.

Q. Did you ever by any private arrangement permit certificate holders to vote the underlying stock?

A. Yes; we made an arrangement where certificate holders holding shares equivalent to full shares of the underlying stock deposited, could deposit their shares with the trustee and vote them.

Q. What caused you to make that additional arrangement and one not contemplated in the indenture?

A. As I recall, it was a regulation of the New York Stock Exchange.

* * * * *

Q. To your recollection, did certificate holders customarily solicit the rights to vote the underlying shares?

A. After we awarded them that right, I don't know of a single case where they asked to vote.

Q. So that this right, from a practical standpoint, was not exercised?

A. That is right.

Similar testimony was given by H. I. Shaw, vice president of American Trustee Share Corporation (Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7448-9) :

A. * * * In our trust indentures, the certificate holders have the right to vote the underlying securities, if they have a sufficient number of shares.

* * * * *

Q. You say that your indenture provided that the certificate holders might vote the underlying stock if they requested, and they held so many shares? What has been your experience on that as to how much voting has been done by certificate holders?

A. I would say practically none.

(See also Public Examination, Transcontinent Shares Corporation, at 13763-3).

²³ Public Examination, Ross Beason & Co., Inc. Group, at 10991.

²⁴ Ibid.

²⁵ See discussion in Ch. VII, Deposited Property, p. 109, *infra*, and Appendix O, p. 400.

VIII. AMENDMENT OF THE TRUST AGREEMENT

In general, the trust agreement granted the depositor and the trustee jointly the right to amend the nonsubstantive provisions of the agreement (those provisions which did not affect materially the rights and duties of the depositor, trustee, or certificate holders). Usually no provision was made for the amendment of the substantive provisions of the agreement.²⁶

The practice of issuing bearer certificates presented difficulties when amendments to the trust agreements became necessary or desirable. In 1932 and 1933 underlying stocks were being eliminated rapidly in North American Trust Shares, 1953, by reason of a provision in the agreement, in effect that an underlying stock upon which a dividend had been passed for 100 days after failure to pay a usual dividend was to be sold by the trustee. Of the 28 original stocks in the portfolio, 12 were eliminated at low prices during the depression by the operation of this provision. This defect in the operation of the trust which the depression had disclosed²⁷ could not be corrected because no right of amendment was reserved and all the holders of the bearer certificates could not be located.²⁸ In the presentation of coupons for payment, however, an ownership certificate is required for federal tax information purposes.²⁹ This certificate states the name of the individual for whose account the coupon is cashed. In practice, however, some brokers have sent in coupons of holders to the trustee in large quantities with the broker's name endorsed thereon.³⁰

In some of the recent fixed trusts, an effort has been made to provide for amendments to the trust agreement for certain purposes. The usual provision was that amendments which were made to facilitate the practical operation of the trust could be made as long as the same did not adversely affect the substantive rights of the certificate holders.³¹ These amendments could be made without consulting certificate holders.

After the New York Stock Exchange had set up its requirements for fixed trusts on May 7, 1931, a large number of trusts, in order that they might qualify for the so-called unobjectionable list of the New York Stock Exchange, amended the provisions of the agreements relating to the liability of the corporate parties; and, in a number of cases, such liability was expanded and certain rights of

²⁶ The trust agreement, like any other contract, could, of course, be amended by the consent of the depositor, the trustee, the holders of the certificates, and any other parties in interest. However, since the certificates were in bearer form, great practical difficulties might arise in connection with any efforts to locate holders in order to secure their approval of any proposed amendment (Public Examination, Calvin Bullock Trusts, at 4211-2). Also, the possible effect of the right to amend on the legal status of the trust may have been a factor in omitting any reference to this right.

²⁷ See Ch. VIII, Eliminations and Substitutions, p. 131, *infra*.

²⁸ Public Examination, Distributors Group, Incorporated, at 10321.

²⁹ See also discussion of legal status of fixed trusts, Appendix H, p. 346, *infra*.

³⁰ Some basis seems to exist for the claim by fixed trust sponsors that practical difficulties exist in attempts to communicate with the holders of certificates for trust shares.

³¹ *Cf.* Trust agreement for Fundamental Trust Shares, Series A, Art. VIII. (Reply to the Commission's questionnaire for this trust, Exhibit C.)

certificate holders enlarged.³² These amendments were usually consistent with the provisions of agreements relating to amendments, and customarily took the form of joint letters by the depositor and trustee to the Committee on Stock List of the New York Stock Exchange containing the details of such amendment.

IX. TERMINATION OF THE TRUST

The trust agreements contained various conditions under which the trust might be terminated, including among others: the expiration of a prescribed length of time, usually 20 years, following the date of execution of the agreement (this condition was the most usual one); a diminution of the number of trust shares outstanding below a certain prescribed minimum; a decrease of the number of underlying companies represented in the portfolio below a certain number; the resignation of the trustee and the failure of the depositor or certificate holders to appoint a successor or the failure of a successor to qualify. This last condition presented serious dangers to the rights of investors who might be deprived of protection under a trust agreement prior to its expiration date after they have paid to the depositor fees for the trustee to cover the life of the trust. An effort to avoid this objectionable situation was made in some trusts by a covenant by the trustee not to resign. This provision, however, is not found in many trust agreements.

Additional conditions under which trusts might be terminated were: the occurrence of any legal impediment to the continued operation of the trust; the determination by the depositor either with or without concurrence of independent investment counsel, that the entire form of investment vehicle set up in the agreement was economically unsound; or the vote of the depositor and of the holders of a certain percentage of the certificates outstanding, or simply by the affirmative vote of the holders of a certain percentage of certificates outstanding.

The provisions for termination of the fixed trusts sponsored by Calvin Bullock were unlike many of the other trusts in that these instruments gave holders of certificates a voice on the question of termination. In the case of Nation-Wide Securities Company, Trust Certificates, Series A,³³ created in 1924, the prescribed life of the trust was to be 20 years, provided, however, that at any time prior thereto, the trust could be terminated by the affirmative vote of the holders of 75% of the trust shares on 60 days' notice to the trustee. In both the trust agreements creating United States Electric Light & Power Shares, Inc., Trust Certificates, Series A,³⁴ dated April 3, 1927,

³² None of these requirements modified to any significant extent the exculpatory provisions described in Ch. IV, The Depositors, p. 61, *supra*, and Ch. V, The Trustee, p. 83, *supra*.

³³ Trust Agreement for Nation-Wide Securities Company, Trust Certificates, Series A, Art. VI, Secs. 16 and 17. (Reply to the Commission's questionnaire for this trust, Exhibit 18-A.)

³⁴ Trust agreement for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, Art. VI, Secs. 16 and 17. (Reply to the Commission's questionnaire for this trust, Exhibit 18-A.)

and United States Electric Light & Power Shares, Inc., Trust Certificates, Series B,³⁵ dated February 1, 1930, a trust period of 20 years was provided, with the right to terminate the trust either by the depositor, acting jointly with the holders of 10% of the certificates outstanding, or by the holders of 75% of the certificates outstanding.³⁶

In the trusts sponsored by Super-Corporations of America Depositors, Inc., the provisions for termination of the trusts underwent a number of developments as the various series were brought out in each year from 1930 to 1932. In the first two trusts, Series A and B,³⁷ the trustee was permitted to terminate the agreement prior to the termination date, if prior to that date, all certificates issued under the trust agreement had been surrendered to the trustee by the holders thereof in exchange for cash or for deposited property; if the amounts payable by the trustee from the deposited property for taxes and certain expenses and counsel fees, and assessments with respect to shares of stock, exceeded certain moneys, principally in the distribution fund and in the reserve fund, if any, and dividends then payable to the trustee and the market value of other property either held by the trustee or payable to the trustee other than the market value of the stock unit; or the trustee gave notice of its resignation and the depositor failed to appoint a successor trustee.

In the final group of trusts, Series AA and BB, the bases for termination of the trust agreement were substantially changed.³⁸ In addition to one of the contingencies for termination contained in the agreements for the previous trusts—lack of funds to pay taxes and expenses—these two trusts could be terminated prior to the termination date by the trustee or the depositor in their respective unrestricted discretion if at any time after January 1, 1933, the certificates outstanding represented less than 100,000 trust shares in the aggregate; by the depositor in its uncontrolled discretion, if at any time, the number of constituent companies, stocks of which were included in the stock units should be less than ten; or by the depositor, if the depositor was of the opinion, confirmed by a written opinion of independent investment counsel satisfactory to the trustee, that the trust shares had ceased to be a sound form of investment by reason of extraordinary conditions affecting the securities market generally.

All these trust agreements provided that if the trustee deemed that market conditions were unfavorable at the termination date for the

³⁵ Trust agreement for United States Electric Light & Power Shares, Inc., Trust Certificates, Series B, Art. VII, Secs. 1 and 3. (Reply to the Commission's questionnaire for this trust, Exhibit 18-A.)

³⁶ In the trust agreement for Nation-Wide Securities Company, Trust Certificates, Series B, dated April 23, 1930, the provision on termination was the same as in Series B of United States Electric Light & Power Shares, Inc., Trust Certificates, Series B. (Trust agreement for Nation-Wide Securities Company, Trust Certificates, Series B, Art. VII, Sec. 3. Reply to the Commission's questionnaire for this trust, Exhibit 18-A.)

³⁷ Trust agreement for Super-Corporations of America, Trust Shares, Series A, Art. VII, Sec. 7.02. (Reply to the Commission's questionnaire for this trust, Exhibit B.)

Trust agreement for Super-Corporations of America, Trust Shares, Series B, Art. V, Sec. 5.02. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

³⁸ Trust agreement for Super-Corporations of America, Trust Shares, Series AA, Art. VI, Sec. 6.02. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

Trust agreement for Super-Corporations of America, Trust Shares, Serial BB, Art. V, Sec. 5.02. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

liquidation of the deposited property the trustee could defer the sale thereof for an additional period of 60 days in the case of Series A and B; 180 days in the case of Series C and D (except in case of termination of the trust agreement by the trustee upon the failure of the depositor to appoint a successor trustee); and 270 days in the case of Series AA and BB.

X. EXTENSION OF THE TRUST

Comparatively few of the trusts examined provided for extension of the trust agreement after its prescribed period of existence. These agreements which did provide for an extension required the affirmative vote of a specified number of certificate holders, the number ranging from a majority to 75% of such holders and with or without the consent of depositor.³⁹

³⁹ United States Electric Light & Power Shares, Inc., Trust Certificates, Series B, Art. VII, Sec. 6, authorized an extension of the trust for a period of 10 years, either with consent of the depositor and the holders of 10% of the certificates outstanding, or without consent of the depositor at the option of the holders of 75% of the certificates outstanding. (Reply to the Commission's questionnaire for this trust, Exhibit 18-A.)

Chapter VII

DEPOSITED PROPERTY

The property which the depositor placed with the trustee from time to time in the creation of the fixed trust units was generally called the deposited property. This deposited property consisted primarily of securities, the name and number of which were specifically designated in the trust agreement, cash representing accumulated earnings from underlying securities, and a reserve fund, if provision was made for such a fund.¹

¹ The following description of deposited property is contained in the trust agreement for Corporate Trust Shares (Original Series), Art. II, Sec. 3. (Reply to the Commission's questionnaire for this trust. Exhibit E.) See Appendix E.

Until the termination of this Agreement as hereinafter provided, upon the deposit by the Depositor with the Trustee at any time and from time to time, under the terms and provisions hereof, of:

A. A Stock Unit;

B. A sum in cash equal to the proportion applicable to 2,000 Corporate Trust Shares then outstanding of moneys then on deposit with the Trustee as the Reserve Fund (hereinafter in Section 1 of Article V described) and not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become, payable; less the proportion applicable to 2,000 Corporate Trust Shares of the amount of all payments to be made from such Reserve Fund by the Trustee for any period prior to such deposit (and not to become payable with respect to the shares of stock, cash, and other property so to be deposited) for assessments, taxes, or otherwise in accordance with Section 5, Section 6, Section 7, or Section 8 of Article III, or of subdivision (g) of Section 1 of Article VII;

C. A sum in cash equal to the proportion applicable to 2,000 Corporate Trust Shares then outstanding of:

(a) Interest allowed by the Trustee to the date of such deposit pursuant to the provisions of Section 3 of Article III hereof on moneys then on deposit with the Trustee as part of such Reserve Fund and not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become, payable;

(b) Any cash held by the Trustee, received by the Trustee hereunder as a dividend or other distribution or by way of interest, and not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become payable;

(c) Any cash held by the Trustee, received by the Trustee pursuant to the provisions of Section 4 of Article III hereof as the net proceeds from the sale of stock dividends, subscription rights, securities and other rights and property (except cash) received by the Trustee (without the surrender of any of the shares of stock forming part of the Stock Units) which cash is not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become payable;

(d) Any cash held by the Trustee as the balance of the net proceeds of sales of securities and other property required to be sold pursuant to the provisions of Section 5, Section 6, Section 7, subdivision (b) of Section 8, Section 9, Section 11 or Section 12 of Article III hereof, remaining after payment of any sums payable therefrom under the provisions of any such Section; and

(e) Cash dividends and the market value (as defined in Section 5 of Article VI hereof) on the day preceding the date of such deposit of all stock dividends, subscription rights and other property which became distributable to the Trustee with respect to the shares of stock held by it hereunder prior to the date of such deposit, but which theretofore shall not have been received by the Trustee;

less the proportion applicable to 2,000 Corporate Trust Shares of the amount of all payments from currently distributable funds (as defined in Section 1 of Article IV) to be made by the Trustee for taxes or charges in accordance with subdivision (g) of Section 1 of Article VII, for any period prior to such deposit (and not to become payable with respect to the shares of stock, cash, and other property so to be deposited);

D. A sum in cash equal to all cash dividends and to the market value (as defined in Section 5 of Article VI hereof) on the day preceding the date of such deposit of all stock dividends, subscription rights and other property, distributable on or

I. LEGAL STATUS OF DEPOSITED PROPERTY

Most trust agreements provided that legal title to deposited property was vested in the trustee or its nominee. The holders of the trust certificates were therefore only the equitable or beneficial owners of the deposited property. In one trust, Nation-Wide Securities Company, Trust Certificates, Series A, sponsored by Calvin Bullock, underlying securities were to be registered in the name of the depositor. In the event that the depositor either was dissolved or became defunct, or otherwise could not hold the underlying securities in its name, or in the event the holders of 75% in number of the shares represented by all outstanding certificates requested the trustee to transfer and register the underlying securities in the name of the trustee, then the trustee was to cause all such underlying securities to be registered in its own name.²

The trust agreement creating Diversified Trustee Shares, Series B, provided that the certificates of underlying stock were to be registered in the name of the trustee, but also provided:³

* * * Notwithstanding the registration of the stock in the name of the Depository or its nominee, the absolute ownership of all stock, securities, and property deposited hereunder shall be vested in the respective Certificate holders in proportion to their holding of Certificates.

II. TREATMENT OF CASH

In many of the early trust agreements, cash deposited with the trustee as part of a unit of deposited property was treated as a general deposit with the trustee and not as trust funds segregated for the certificate holders. In these trust agreements it was provided that investors should waive any rule of law relating to trust funds on deposit. For example, the trust agreement for North American Trust Shares, 1953, contained the following provision:⁴

The Trustee shall hold all moneys deposited with it, or received by it hereunder, as a general deposit until required to disburse the same in accordance with the provisions of this agreement, and the requirements of any rule or law or statute now or hereafter in force regarding the investment or segregation of trust funds shall not apply to such moneys.

after the date of such deposit with respect to shares of stock so deposited to the holders of record thereof on a date prior to such deposit; and

E. Shares of stock, securities, or other property, in kind, equivalent to the proportionate amount of stock, securities, and other property (in addition to Stock Units), if any, then held by the Trustee, applicable to 2,000 Corporate Trust Shares, then outstanding; or, at the option of the Depositor, in lieu thereof a sum in cash equal to the market value (as defined in Section 5 of Article VI, hereof) of such shares of stock, securities, or other property on the day preceding the date of such deposit;

the Trustee shall forthwith execute and deliver to the Depositor a Certificate or Certificates (with or without appropriate coupons) for an aggregate of 2,000 Corporate Trust Shares, each such certificate to represent the number (not exceeding 2,000) of Corporate Trust Shares specified by the Depositor.

² See trust agreement for Nation-Wide Securities Company, Trust Certificates, Series A, dated December 22, 1924, Art. II, Sec. 3. (Reply to the Commission's questionnaire, Exhibit 18-a.)

³ See trust agreement for Diversified Trustee Shares, Series B, dated November 1, 1927, Art. II, Sec. 2. (Reply to the Commission's questionnaire for this trust, Exhibit E.) See pp. 78 and 97, *supra*.

⁴ Trust agreement for North American Trust Shares, 1953, Art. III, Sec. 3. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

As a consequence, with respect to any cash of the fixed trust held by the trustee, the holders of certificates for trust shares were merely general creditors of the trustee, and in the event of bankruptcy of the trustee, these investors would not have been entitled to any preference over other general creditors of the trustee with respect to these cash funds. However, the requirements of the New York Stock Exchange,⁵ applicable to fixed trusts, promulgated on May 7, 1931, contained the following requirement:

All of the property in which the holders of the trust certificates have a beneficial interest, including cash however received, must be treated by the Trustees in a manner similar to property held under a personal deed of trust.

Although most of the larger trusts complied with this provision in order to qualify for this "unobjectionable" listing, some of the trusts which have not so qualified still retain the old provision under which the certificate holder has merely the status of a general creditor with respect to the cash funds of the fixed trust.

III. SELECTION OF UNDERLYING SECURITIES

The fixity or rigidity of the portfolio of the fixed trust was presented to investors as one of the safety factors of fixed trusts. The selection of the underlying securities was therefore frequently based primarily on the sales appeal of such portfolio. The portfolio almost invariably consisted of the so-called market leaders, which had popular appeal. However, in the selection of these market leaders, other factors were evidently considered by the depositors in connection with the distribution of the fixed trust shares. Apparently in order to increase the average age of the underlying corporations in both Corporate Trust Shares, Original Series and North American Trust Shares, 1953, the stock of General Motors Corporation was omitted and in each trust the stocks of eight railroads which had long histories were included in the list of 28 securities.⁶ As a result of various inclusions and exclusions, the average age of the underlying securities found in Corporate Trust Shares is represented to be 59 years. The average number of years of unbroken dividend records of the underlying securities is represented to be 33 years and the number of subsidiaries of the underlying corporations was represented to be 1,539.⁷

As has been indicated, the trust certificates sold by the sponsors to the public represented an undivided interest in a specified list of underlying securities constituting the unit which was deposited with the trustee. As the trust certificates were sold, new units of underlying securities were deposited with the trustee. Since the underlying securities were prescribed both as to the security and number of shares to be deposited per unit, the shares of the underlying corporations had to be purchased regardless of market prices if new units were to be created and deposited and new trust certificates sold to the public. As a consequence, the depositor, which was required to deposit the units before the beneficial certificates could be issued

⁵ See Appendix K.

⁶ See Appendix O, p. 400 and Table O-9.

⁷ Footnote on following page.

for sale to the public, had no discretion as to the time of purchase of the underlying securities deposited or the time of execution of orders for such purchases. In these circumstances this mandatory purchasing power of the sponsors in the case of some underlying securities might have the effect of increasing the market price of these portfolio securities. These mandatory purchases had two effects: (1) to raise the market price of the underlying securities of the fixed trust, and (2) as a necessary corollary to increase the offering price of the fixed trust certificates which was based upon the market price of the underlying securities. As a consequence investors were, at times, purchasing securities at their peak prices. The extent of the effect of this mandatory buying in connection with fixed trusts in this country is conjectural since the portfolio of these organizations consisted of the securities of leading corporations which were widely distributed and whose markets were very active. So, too, it is problematical whether the volume of purchases in these particular securities by the sponsors of fixed trusts had an appreciable effect upon the market price. Of course, for the inactive securities or for the securities for which the floating supply was small, mandatory buying of underlying securities might conceivably affect or accelerate the price trend of that particular security.

⁷ In an offering circular of Corporate Trust Shares, Original Series, the following data are printed (Reply to the Commission's questionnaire for Corporate Trust Shares, Original Series, Exhibit G-5, May 28, 1931):

Company	Moody's rating	Age of company and/or predecessor (years)	Unbroken dividend record of company and/or predecessor (years)	Number of companies in which com- plete or par- tial stock ownership was held in December 1930
American Radiator & Standard Sanitary Corpora- tion.....	Ba	50	27	40
American Telephone and Telegraph Co.....	Aa	51	50	81
American Tobacco Co. (class B).....	A	41	26	15
Atchison, Topeka & Santa Fe Ry. Co.....	Aa	72	30	96
Consolidated Gas Co. of New York.....	A	108	38	25
duPont (E. I.) de Nemours & Co.....	A	129	27	36
Eastman Kodak Co. of New Jersey.....	A	51	29	82
General Electric Co.....	Aa	39	32	64
Illinois Central R. R. Co.....	Baa	80	71	71
Ingersoll-Rand Co.....	Baa	61	21	4
International Harvester Co.....	Baa	50	21	24
Louisville & Nashville R. R. Co.....	A	81	32	48
National Biscuit Co.....	Aa	33	32	13
New York Central R. R. Co.....	A	105	61	102
Otis Elevator Co.....	A	33	26	16
Pennsylvania R. R. Co.....	A	85	84	154
Southern Pacific Co.....	A	47	25	102
Standard Oil Co. of California.....	A	52	19	31
Standard Oil Co. (Ind.).....	A	42	19	83
Standard Oil Co. (N. J.).....	Aa	51	49	118
Standard Oil Co. of New York.....	A	49	29	29
Texas Corporation.....	Baa	29	28	40
Union Pacific R. R. Co.....	A	62	31	32
United Fruit Co.....	Baa	42	32	13
United States Steel Corporation.....	A	30	15	195
Western Union Telegraph Co.....	Baa	80	57	22
Westinghouse Electric & Manufacturing Co.....	Baa	59	19	23
Woolworth (F. W.) Co.....	A	52	18	5
Average.....		59	33	
Total.....				1,539

Hugh Bullock, testifying as to the possible effect of this compulsory buying, stated:⁸

A. * * * The price of many English industrial securities today exceeds their highest prices of the twenties, that is, '28 and '29. Many English authorities feel that the price of some of their well-known common stocks there has been forced up by the terrific buying of these unit trusts, willy-nilly, because they have to buy those as they set up new units, and certain British authorities are genuinely concerned about the aftermath, namely, when liquidation comes.

IV. DISTRIBUTIVE AND ACCUMULATIVE TYPES OF FIXED TRUSTS

Another important problem in connection with deposited property related to the treatment of stock dividends, rights, split-ups and distributions other than cash received in connection with the underlying securities. In the cumulative type trust (in which increase in principal was emphasized) dividends or other distributions on the underlying securities in the form of stock dividends and split-ups were, in general, retained by the trust as an increment to corpus of the trust. Rights to subscribe were in some cases sold and the proceeds invested in shares of the company which issued them. In the distributive type trust (in which maximum income was emphasized) the dividends or other distributions of the type referred to above were turned into cash under conditions prescribed in the trust agreement and the proceeds distributed to certificate holders on the next succeeding distribution date.

Constant experimentation in the matter of treatment of dividends and other distributions was carried on by sponsors, shown for example, in the series of trusts brought out respectively in the years 1930, 1931, and 1932 by Super-Corporations of America Depositors, Inc.⁹

The three "maximum return" (distributive) series—Series A, C, and AA—provided for the sale of stock dividends, rights and split-ups not requiring the surrender of shares of stock. Those shares received on reclassifications and on change in the number of shares, and stocks of successor companies, in the case of consolidations, mergers, reorganizations and sale of all the assets of underlying companies, were retained if the stock received in exchange was common stock. In the "capital accumulation" series—Series B, D, and BB—the provisions differed to some extent in each series. In Series B, the highest number of shares divisible by four was retained in the case of reclassification or change in number of shares, and the same plan was followed on receipt of the common stock of a successor company and in the case of stock dividends in excess of 10%. In Series D, the same rule was applied, except that the minimum of 10% in the case of stock dividends was abandoned. Finally, in Series BB the highest number of whole shares received for each unit was

⁸ Public Examination, Calvin Bullock Trusts, at 3945.

⁹ The following table (Table 14 on next page) illustrates the changes which were made. (Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, B, C, D, AA, and BB).

TABLE 14.—Disposition of property received by the trustee of *Super-Corporations of America Trust Shares*

Type of property	Series A (1930) (dis-tributive)	Series B (1930) (accu-mulative)	Series C (1931) (distribu-tive)	Series D (1931) (accu-mulative)	Series A A (1932) (dis-tributive)	Series B B (1932) (accu-mulative)
Stock dividends and split-ups not requiring sur-render of shares.	Sold.....	Highest number di- visible by 4 retained if in excess of 10 per- cent. Highest number of shares divisible by 4 retained. Sold.....	Sold.....	Highest number of shares divisible by 4 retained. do.....	Sold.....	Highest number of shares for each unit retained. Do.
Reclassification or change in number of shares.	Same number of shares held previ- ously retained. Sold.....	Highest number of shares divisible by 4 retained. Sold.....	Highest number of shares divisible by 4 not ex- ceeding number previ- ously held, retained. Sold.....	do.....	Highest number of shares not exceeding number previously held, retained. Sold.....	Do.
Rights.....	Same number of shares held previ- ously retained.	Highest number of shares divisible by 4 retained.	Highest number of shares divisible by 4 not ex- ceeding number previ- ously held, retained.	Highest number of shares divisible by 4 retained.	Highest number of shares not exceeding number previously held, retained.	Sold and proceeds in- vested in stock of company. Highest number of shares for each unit retained.

retained in the case of stock dividends, reclassifications, and change in number of shares. Rights were sold, but the proceeds of the sale were reinvested in shares of the stock in connection with which the rights were received.

V. CHIEF ITEMS OF ASSETS AND LIABILITIES OF FIXED TRUSTS ¹⁰

Securities have always constituted by far the largest item of the total assets or property underlying the certificates of fixed trusts (Table 15). Stocks—almost exclusively common stocks—have predominated, accounting for practically 100% of portfolio up to the end of 1931 for the trusts studied, and for 95% in 1935, bonds being largely concentrated in the portfolio of one fixed trust. Property other than securities underlying fixed trust certificates, consisted almost exclusively of cash and represented only about 13% of the total assets in 1930 and 3% in 1935.

The interest of the holders of certificates in the fixed trusts at each year-end was almost equivalent to the amount of the total assets of such trusts, since liabilities to others than certificate holders were unimportant. A fairly significant item in the balance sheets of fixed

¹⁰ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, at 103 (House Doc. No. 70, 76th Cong.).

TABLE 15.—*Aggregate trust assets and liabilities at year-ends ^a of 49 fixed and semi-fixed investments trusts ^b with maximum total assets at any time of \$500,000 and over, 1927-35*

[Amounts in thousands of dollars]

Item	1927	1928	1929	1930	1931	1932	1933	1934	1935
Number of companies.....	4	6	14	27	38	42	47	48	49
TRUST ASSETS									
Securities: ^c									
Stocks.....	17,962	62,853	119,427	248,486	197,614	160,344	153,448	118,963	150,529
Bonds.....						940	3,193	4,912	7,799
Other.....			108	34	6				
Total securities.....	17,962	62,853	119,535	248,520	197,620	161,284	156,641	123,875	158,328
Accrued interest and dividends.....			1	92	225	196	161	202	255
Stock dividends and rights receivable.....				56	44	36	12	3	4
Cash in hands of trustees.....	645	2,351	8,690	35,990	19,197	7,509	5,038	3,795	4,213
Other assets.....				1	57		5	4	50
Total assets.....	18,607	65,204	128,226	284,659	217,143	169,025	161,857	127,879	162,850
TRUST PRINCIPAL AND LIABILITIES									
Trust certificates outstanding.....	17,962	62,853	119,427	248,403	197,862	161,481	156,764	124,077	158,402
Funds to be distributed to certificate holders on subsequent distribution dates.....	288	780	2,964	12,692	7,841	4,532	2,402	2,217	2,805
Matured coupons or distributions payable.....	198	795	1,855	5,711	5,358	1,906	1,743	1,022	932
Reserves.....	159	776	3,943	17,808	5,921	1,067	748	506	509
Other liabilities.....			37	45	161	39	200	57	202
Total principal and liabilities.....	18,607	65,204	128,226	284,659	217,143	169,025	161,857	127,879	162,850

^a The balance sheet dates for 5 trusts have been reported for dates other than Dec. 31.

^b Includes North American Bond Trust and Keystone Custodian Funds, Series B-3 and E-2. Corporate Trust Shares, Series AA and AA (Modified) are counted as 1 trust and Corporate Trust Shares, Accumulative Series and Accumulative Series (Modified) as 1.

^c At market values.

trusts in the years 1929, 1930 and 1931 consisted of reserves composed primarily of advanced payments—that part of the payments by investors for their certificates which was retained in cash by the trust to make cash distributions at rates prescribed in the trust agreements during periods when cash dividend receipts on underlying securities were insufficient for such payments. Reserves reached their maximum for any year-end with approximately \$18,000,000 at the end of 1930 when they represented over 6% of the total funds. Since these reserves were heavily drawn upon during 1931 and 1932, they shrank until they constituted less than $\frac{1}{2}\%$ of total funds after 1932.

The item “Funds to be distributed to certificate holders on subsequent distribution dates” consisted of receipts of dividends on underlying securities and the equalization payments set aside from the proceeds of the sale of new certificates and represented on the whole a transitory item. The growth in size of this item was dependent, to a large extent, on the volume of current sales of fixed and semi-fixed trust certificates, although it was also influenced by the yield on the underlying securities and by some purely mechanical factors. This item reached a maximum, therefore, at the end of 1930 of nearly \$13,000,000, or 4% of total funds, and has been relatively stable at about \$2,000,000 or less than 2% of total funds since 1933.

The item “matured coupons or distributions payable” is, in part, a measure of investors’ inertia in claiming the returns on their certificates. This item grew to over \$5,000,000, or 2% of the total funds, at the end of 1930 and 1931, but then declined steadily to under \$1,000,000, or not much over $\frac{1}{2}\%$ of total funds, at the end of 1935.

VI. INCOME AND DISTRIBUTIONS OF FIXED TRUSTS ¹¹

The funds distributed by fixed trusts to the certificate holders are derived from three main sources: first, current income derived from dividends on underlying stocks and interest on underlying bonds and debentures and on cash deposits; second, the proceeds from the sale of rights, stock dividends, eliminated portfolio securities, etc.; and third, “equalization payments,” which were included in the price paid by investors for new certificates, and represent an amount equivalent to the funds to be distributed which have accumulated on the outstanding certificates between the last preceding distribution date and the date of the sale of the new certificates.

The distribution accounts of 49 fixed trusts with maximum total assets in excess of \$500,000 at some time during this period are presented for each year from 1927 to 1935 in Table 16. During these nine years, current income, consisting of interest and cash dividends received, aggregated about \$61,000,000. Of this amount, all but \$1,000,000 was in the form of cash dividends on the underlying stocks of the trusts. The proceeds from the sale of stock dividends, rights, and eliminated securities exceeded \$33,000,000 and “equalization payments” amounted to nearly \$27,000,000. The gross receipts of the distribution accounts of fixed trusts also included nearly \$16,000,000 transferred from reserves, that is, funds usually taken out of the capital contributed by certificate holders to keep dividend payments

For footnote see page 115.

up to certain levels when current income was insufficient for such payments. Thus, current income constituted only about 44% of the total fund distributed to certificate holders during the years 1927 to 1935. Receipts on capital account, that is, the proceeds from sale of stock dividends, rights, and eliminated securities and transfers from reserves, represented 36%. The transitory item of "equalization payments" accounted for most of the balance (20%) of the total fund distributed.

Cash dividends received, representing over 98% of current income, varied, first, with the size of the fund, and, second, with the increase and decrease of the dividend rates on the underlying stocks. From only slightly above \$200,000 in 1927, cash dividends received increased to a maximum of \$15,700,000 in 1931; and thereafter gradually declined to \$5,600,000 in 1935.

Proceeds realized by fixed trusts from sale of stock dividends, rights, and shares arising from split-ups were very large in 1930,

¹¹ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, at 104 (House Doc. No. 70, 76th Cong.).

TABLE 16.—Aggregate distribution accounts for each year for 49 fixed and semi-fixed investment trusts^a with maximum total assets at any time of \$500,000 and over, 1927-35

[Amounts in thousands of dollars]

Item	1927	1928	1929	1930	1931	1932	1933	1934	1935	Period
Number of companies.....	4	6	14	27	38	42	47	48	49	49
GROSS RECEIPTS										
Carry over from previous periods.....		1	1	67	106	151	274	207	273	
Interest received.....		5	22	98	139	51	130	238	338	1,021
Cash dividends received.....	214	1,663	3,130	7,359	15,707	12,223	7,981	6,062	5,567	59,906
Total, interest and cash dividends received.....	214	1,668	3,152	7,457	15,846	12,274	8,111	6,300	5,905	60,927
Proceeds: Sale of stock dividends, rights, eliminated securities, excess shares arising from split-ups, etc.....	165	1,275	3,703	18,555	1,917	2,769	3,054	583	1,287	33,308
Other receipts.....				30	6		1	6	3	46
Transfers from reserves.....		44	26	116	13,044	2,121	308	6	16	15,681
Equalization credits with respect to newly issued shares.....	239	709	2,799	16,643	4,415	1,493	132	155	225	26,810
Total gross receipts.....	618	3,697	9,681	42,868	35,334	18,808	11,880	7,257	7,709	136,772
DISBURSEMENTS^b										
Trustees' fees and expenses.....			1	5	8	11	16	27	31	99
Taxes.....					6		61	22	1	90
Legal and auditing expenses.....						16	4	8	17	45
Other expenses.....			3	24	63	42	22	14	14	182
Equalization debits with respect to shares surrendered for redemption.....		64	213	378	2,196	1,804	1,030	486	275	6,446
Total disbursements.....		64	217	407	2,273	1,873	1,133	557	338	6,862
DISPOSITION OF NET RECEIPTS										
Distributions to shareholders.....	608	3,383	8,809	42,076	32,681	16,621	10,448	6,414	7,016	128,056
Transfers to reserves and other dispositions.....	9	249	588	279	230	40	92	13	19	1,519
Carry over to next period.....	1	1	67	106	150	274	207	273	336	335
Total net receipts.....	618	3,633	9,464	42,461	33,061	16,935	10,747	6,700	7,371	129,910

^a Includes North American Bond Trust and Keystone Custodian Funds, Series B-3 and E-2. Corporate Trust Shares, Series AA and AA (Modified) are counted as 1 trust and Corporate Trust Shares, Accumulative Series and Accumulative Series (Modified) as 1.

^b All of the expenses incurred in the organization and administration of these trusts are not included herein, since the trust indentures frequently provide that part or all of the expenses be paid by the depositor from the original loading charge or otherwise.

when they amounted to about \$18,600,000, or almost two and a half times current income. These proceeds were relatively small, too, in 1929, when they amounted to over \$3,700,000, exceeding current income by more than \$500,000. The unusually large size of these proceeds in 1930 was chiefly attributable to the funds derived from the sale of shares arising from split-ups of underlying securities,¹² but these items became unimportant after the end of 1931.

The proceeds from the sale of eliminated securities (underlying securities which were sold from portfolios upon the happening of contingencies specified in the indentures) other than stock dividends, rights, and split-ups were of importance only in 1932 and 1933, averaging slightly above \$2,000,000 in each of these years. During these depression years, when market prices were very low, dividends on the underlying securities were passed and the depositors or trustees were frequently required by the trust indentures to sell such securities upon the occurrence of that contingency.¹³ Distributions to certificate holders made from reserves were practically limited to the years 1931 and 1932, with 1931 alone accounting for over 83% of the \$15,700,000 distributed from such source during the period 1927 to 1935 (Table 16). The utilization of reserves for the payment of distributions in 1931 and 1932 was primarily the result of the sharp decline in dividends on portfolio securities which reduced total distributable funds, other than reserves, to an amount below that necessary to meet the requirements of those fixed trusts whose indentures obligated them to distribute periodically specified amounts whether derived from reserves or otherwise so long as such reserves were available. By the end of 1932 the reserves of fixed trusts available for distribution payments were virtually depleted (Table 15).

"Equalization credits" depend on two factors: the volume of current sales of certificates, and the rate of accumulation between distribution dates. As a result of the very heavy sales of additional certificates during 1930, and the large amount of funds derived from the sale of stock dividends and split-up shares of portfolio securities, total equalization credits reached a maximum of over \$16,600,000 in 1930. They were also relatively large in 1929 and 1931, both years of active distribution of fixed trust certificates.

Practically no current expenses entered into the income accounts of fixed trusts. Normal administrative costs were in most cases paid by the sponsors out of the loading charge originally paid by the certificate holders. Administrative expenses of fixed trusts, other than those included in the "loading charge," aggregated about \$416,000 during the nine years from 1927 through 1935.

The only item of consequence deducted from gross receipts, before distributions to certificate holders, was "equalization debits." This item constituted the counterpart of "equalization credits" and represented payments of accrued distributions made to investors redeem-

¹² Distributions of the proceeds received by the trusts from the sale of stock dividends, rights, and split-up shares were made by the distributive type of fixed and semifixed trusts as required by the indenture provisions of that type of fixed trust. Distributive and cumulative types of fixed and semifixed trusts are defined and described in this chapter, p. 111, *supra*.

¹³ The relatively large amount of this item in 1935 was due almost entirely to the elimination of certain bonds from the portfolio of the North American Bond Trust as a result of discretionary sales, redemptions, calls, and maturities.

ing the certificates. "Equalization debits" aggregated over \$6,400,000 from 1927 through 1935 and reached their highest level with an average of about \$2,000,000 per year in 1931 and 1932, when redemptions were at their maximum.

VII. DISTRIBUTION OF CAPITAL

It is evident that when underlying stocks are eliminated by reason of the passage of dividends or the existence of some other basis for elimination and the proceeds from the sale of these underlying stocks are distributed to investors, or when split-ups or, in some cases, property other than cash dividends received by the trustee are sold and the proceeds distributed to investors, a distribution of capital to the investor, and not a distribution of income, takes place. The offering circular of North American Trust Shares, 1953, dated July 15, 1931, stated:¹⁴

One of the fundamental principles of the NORTH AMERICAN TRUST SHARES plan of investment is the periodical return of that portion of the investor's capital representing proceeds from the sale of rights, stock dividends and extra shares derived from stock split-ups, and also any amount that may be withdrawn from the reserve fund.

When, however, the investor received this capital distribution in connection with the sale of the distributions received on the underlying securities and still the trust apparently retained the original number of shares of the underlying securities in the portfolio, it is doubtful whether the investor was always cognizant of the fact that he was receiving a return of his own capital in the periodic distribution. The failure to realize that the periodic distribution received by the fixed-trust certificate holders constituted a return of capital, in whole or in part, would prevail especially in the case of a split-up of shares. For example, General Electric Company in January 1930 split its stock four shares for one. For each share outstanding of General Electric Company held by a trust the trust received four new shares. In most trusts of the distributive type, where this stock was in the portfolio¹⁵ three of these new shares were sold and the proceeds distributed as "income" on the trust.

The offering circulars of the distributive types of fixed trusts did not use the term "income" but rather used the term "yield" and "average annual return" so that distributions which were return of capital would be included. For example, the offering circular of North American Trust Shares, 1953 stated:¹⁶

Yield

Average annual return, based upon the average annual prices of the shares of stock in the foregoing unit, for the 18-year period from January 1911 to January 1929, would have been \$1.24 per NORTH AMERICAN TRUST SHARE, or 11.98% per annum on the capital investment. Included in this return were:

¹⁴ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit F-13.

¹⁵ See Appendix O, Table O-15, for the number of fixed trusts in which General Electric Company stock was in the portfolio.

¹⁶ Reply to the Commission's questionnaire for North American Trust Shares, 1953, offering circular B, Exhibit F-2.

1. Cash dividends.

2. The value of subscription rights and stock dividends and/or additional shares of stock received from split-ups.

The offering circular of Corporate Trust Shares, Original Series, carried a similar statement, although a substantial part of the "estimated average annual distribution" would be a return of capital:¹⁷

Average income

If the trust agreement had been in force at the beginning of 1913, the estimated average annual distribution for the 17-year period ending December 31, 1929, would have been \$1.52 per share. This amount is equal to 14.7% annually on the assumed annual average price of the Shares for the 17-year period shown, as indicated by the annual average prices of the underlying stocks.

Chart V indicates the proportion of periodic distributions paid on trust shares from cash income and from capital sources.

A few trust agreements required that a statement of income be sent to investors upon application so that the investor would be informed as to which part of the distribution was a return of capital and which part was income.¹⁸ Although the requirement to submit such statements was incorporated in many trust agreements, some sponsors voluntarily sent these statements of distribution.

Recognizing the fact that the distribution of the proceeds of the sale of split-ups and in many cases of stock dividends, was in fact a distribution of capital, sponsors of some trusts permitted the investors to purchase trust shares with part of or all the periodic distributions at a discount from the offering price of the shares. This right was generally offered by the sponsors voluntarily because it also afforded the salesmen an opportunity to call again on certificate holders and attempt to sell the investor more trust shares. In the case of Super-Corporations of America Trust Shares, Series A, the reinvestment right was provided for in the trust agreement:¹⁹

The Depositor will permit holders of certificates for Trust Shares to apply the semi-annual distributions payable in respect of the Trust Shares represented by their certificates, or a portion thereof, to the purchase of additional Trust Shares, in lots of five shares or any multiple thereof, at the Depositor's bid price for Trust Shares in force at the time of the surrender of the coupons representing such distributions. The coupons representing any distributions to be so applied to the purchase of additional Trust Shares shall be surrendered to the Depositor at the time of any request for such application.

This right was, of course, of temporary duration because public offering of most of the leading fixed trusts was withdrawn within two or three years after the beginning of their distribution.

While distribution of capital in the form of income may be misleading to investors, the falling markets from 1929 to 1932 made the

¹⁷ Offering circular dated January 1, 1930, p. 2, Exhibit G-2. (Reply to the Commission's questionnaire for Corporate Trust Shares [Original Series].)

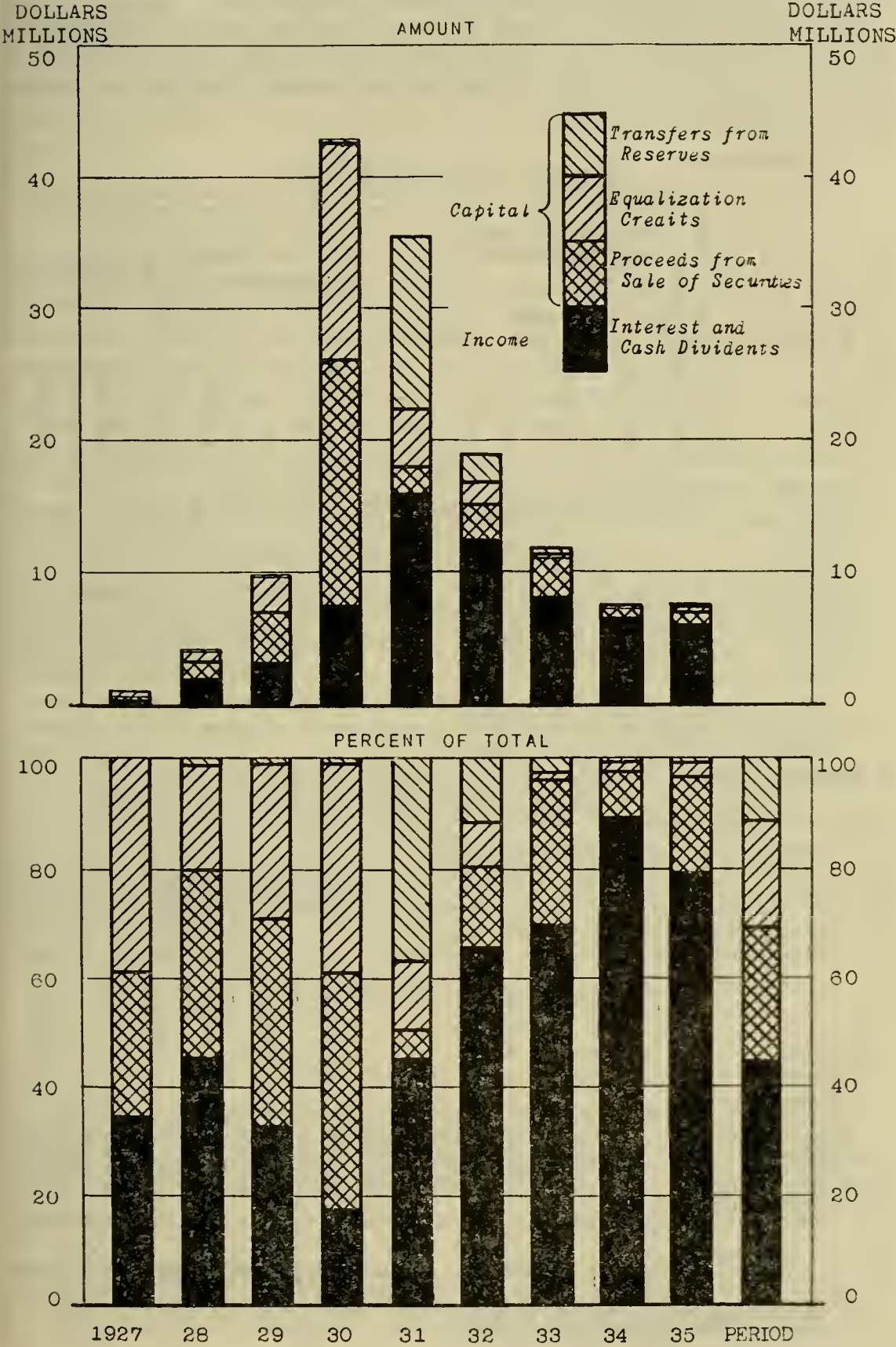
¹⁸ Trust agreement for Corporate Trust Shares, Art. IV, Sec. 6. (Reply to the Commission's questionnaire for this trust, Exhibit E.) See also trust agreement for North American Trust Shares, 1953, Art. IV, Sec. 6. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.) This information was usually needed by the investor in order to compute his Federal income tax and state income tax, if any.

¹⁹ Trust agreement for Super-Corporations of America Trust Shares, Series A, Art. V, Sec. 5.01. (Reply to the Commission's questionnaire for this trust, Exhibit B.)

CHART V

TOTAL GROSS RECEIPTS OF FIXED AND SEMI-FIXED
INVESTMENT TRUSTS CLASSIFIED BY SOURCE

1927 - 1935



practice advantageous, temporarily at least, for investors. In the case of North American Trust Shares, 1953, the sales of securities indicated in the table which follows were made as the result of readjustments. The proceeds of the sales per unit were \$4,444.36 against a low price for the depression of \$763.94 for the securities sold. The value recovered to \$2,124.62 as of December 31, 1935.²⁰

Similarly, in Corporate Trust Shares, Original Series, \$3,909 were the proceeds of the sales as compared with \$676.94, the value of the property at the low of the depression, and with \$1,989.62 the value as of December 31, 1935.²¹

²⁰ See the following table:

TABLE 17.—Sales of securities as the result of readjustments, North American Trust Shares, 1953

Title of security	Number of shares sold	Low price at date of offering, Feb. 14, 1929			Date sold	Closing price at date sold		Low price in period, Feb. 14, 1929-Dec. 31, 1935		Closing price at Dec. 31, 1935	
		Original price	Adjusted price			Per share	Per unit	Per share	Per unit	Per share	Per unit
			Per share	Per unit							
Canadian Pacific	12	\$245.12	\$61.28	\$735.36	Oct. 20, 1930	\$43.00	\$516.00	\$7.25	\$87.00	\$11.25	\$135.00
General Electric	12	229.50	57.38	688.56	Feb. 26, 1930	75.12	901.44	8.50	102.00	38.25	459.00
American Tobacco B	4	173.50	86.75	347.00	Sept. 18, 1930	122.62	490.48	44.00	176.00	100.25	401.00
American Radiator & S. S.	12	193.00	48.25	579.00	May 15, 1929	45.62	547.44	3.12	37.44	24.88	298.56
National Biscuit	6	181.50	72.60	435.60	April 15, 1930	88.50	531.00	20.25	121.50	33.00	198.00
Otis Elevator	12	311.00	77.75	933.00	April 17, 1930	76.25	915.00	9.00	108.00	24.88	298.56
Woolworth	6	200.12	80.05	480.30	July 15, 1929	90.50	543.00	22.00	132.00	55.75	334.50
Total per unit				4,198.82			4,444.36		763.94		2,124.62

° Excess shares resulting from 4 for 1 split-up.

° Excess shares resulting from 2 for 1 split-up.

° Excess shares resulting from 2½ for 1 split-up.

²¹ See the following table:

TABLE 18.—Sales of securities as the result of readjustments, Corporate Trust Shares

Title of security	Number of shares sold	Low price at date of offering, June 6, 1929			Date sold	Closing price at date sold		Low price in period June 6, 1929-Dec. 31, 1935		Closing price at Dec. 31, 1935	
		Original price	Adjusted price			Per share	Per unit	Per share	Per unit	Per share	Per unit
			Per share	Per unit							
American Tobacco B.....	° 4	\$170.00	\$85.00	\$340.00	Oct. 5, 1930	\$119.25	\$477.00	\$44.00	\$176.00	\$100.25	\$401.00
National Biscuit.....	° 6	182.00	72.80	436.80	Apr. 17, 1930	88.00	528.00	20.25	121.50	33.00	198.00
Otis Elevator.....	° 12	351.00	87.75	1,053.00	Apr. 16, 1930	76.25	915.00	9.00	108.00	24.88	298.56
Woolworth.....	° 6	219.00	87.60	525.60	July 9, 1929	90.00	540.00	22.00	132.00	55.75	334.50
General Electric.....	° 12	274.25	68.56	822.72	Feb. 25, 1930	72.50	870.00	8.50	102.00	38.25	459.00
American Radiator.....	° 12	176.00	44.00	528.00	July 5, 1929	48.25	579.00	3.12	37.44	24.88	298.56
Total per unit.....				3,703.12			3,909.00		676.94		1,989.62

° Excess shares resulting from 2 for 1 split-up.

° Excess shares resulting from 2½ for 1 split-up.

° Excess shares resulting from 4 for 1 split-up.

Conversely, the sale of stock dividends and split-ups was unprofitable to the investor in a rising market because these capital distributions were converted into cash and did not appreciate in value. To a certain extent this defect was overcome by some trusts by giving the holder of the certificate the right to subscribe to new trust shares at a discount. In most cases, however, this subscription right is academic since the record indicates that as soon as sales of trust shares fell off substantially, the issuance of new shares of the trust was discontinued, a new fixed trust created with an additional loading charge, and a campaign to switch the certificate holder into the new trust was begun.²²

VIII. RESERVE FUNDS

To stabilize the "yield" or the return to investor on his trust shares, a number of trusts provided a paid-in reserve fund. The theory was advanced that the reserve fund was comparable to a savings account on which the investor could draw if his earnings at any time fell below a certain minimum. In other words, the investor would be repaid, on the coupon attached to the trust certificate, the money which he had advanced on his trust share.²³ In North American Trust Shares, 1953, a reserve fund of 60 cents a share was established and a coupon calling for 30 cents per share semi-annually was attached to the trust certificate.²⁴ The reserve fund was utilized in the years 1931 and 1932 and was exhausted by June 30, 1933. The reserve fund has not been restored.²⁵

Reserve funds were also found in some of the fixed trusts originally sponsored by United States Shares Corporation. In some of these trusts the reserve funds were paid-in reserve funds, created with the deposit of each unit and contributed by the purchasers of the certificates.

²² See Ch. XII, Exchanges of Trust Shares, *infra*.

²³ Reply to the Commission's questionnaire for Corporate Trust Shares (Original Series), Item 36 (a).

²⁴ Trust agreement for North American Trust Shares, 1953, Art. IV, Sec. 2. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

²⁵ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 36 (a). Other trusts created about the same time had the same experience. (See the reply to the Commission's questionnaire on Corporate Trust Shares (Original Series), Item 36 (a).) In the case of Super-Corporations of America Trust Shares, Series A, set up in 1930, the reserve fund of 50 cents per share was drawn on as follows (Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, Items 36 (a) and 39 (d)):

TABLE 19.—*Transfers from reserves—Super-Corporations of America Trust Shares, Series A*

6 months ended—	Per trust share	Transfer to reserve fund per trust share	Amount transferred from reserve fund
Apr. 15, 1931.....	0.095535	-----	-----
Oct. 15, 1931.....	.153694	-----	\$828,048.41
Apr. 15, 1932.....	.171643	-----	-----
Oct. 15, 1932.....	.079138	-----	693,639.55
Apr. 15, 1933.....	-----	0.038856	-----
Oct. 15, 1933.....	.033859	-----	16,471.82

These transfers from the reserve fund were used to make up the difference between the earnings per share and the 30 cents per share called for by the coupon. Thereafter the reserve fund was exhausted and was never replenished. The only time funds were available to restore the reserve fund was in 1933, when \$16,471.82 was placed in the fund, but this sum was withdrawn in the same year.

These funds were generally to be replenished out of surplus earnings during subsequent dividend periods. In United Insurance Trust Shares (formerly Insurance Stock Trust Shares, Series F) and United New York Bank Trust Shares (formerly Bank Stock Trust Shares Series C-3) reserve funds were built up out of net profits from sales of underlying securities and, in the case of the former trust, from the sales of securities in a certain "collateral fund." This collateral fund, a general fund separate from the units but in which each certificate holder had a pro rata beneficial interest, consisted of cash deposited with each unit and stocks of insurance companies and insurance holding companies in which the trust was permitted to invest, United States Government securities and collateral loans. Securities in this fund could be sold, invested and reinvested at the direction of the depositor.²⁶ Some reserve funds were used to pay taxes, trustee's fees and depositor's fees and to stabilize as far as possible distributions of the trust. However, as of the beginning of 1932 most of these reserve funds were exhausted.²⁷

In connection with the reserve funds, the sponsors sometimes retained interest on these funds.²⁸ Also, in computing the load to be charged the investor on the trust shares, the reserve fund which represented funds the investor had advanced, was included. This practice was prohibited under the requirements of the New York Stock Exchange on May 7, 1931, for those fixed trusts on the "unobjectionable" list.²⁹

In some trusts, provision was made for the investment of the reserve fund. For example the trust agreement for Deposited Bank Shares, N. Y., Series A, sponsored by Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.) provided that cash in the so-called surplus fund in excess of \$25,000 was to be invested and less than \$25,000 could be invested in the trust certificates of that trust.³⁰ This surplus fund consisting of the trust's own certificates was created in the following manner:

With the deposit of the initial unit of underlying securities and the delivery by the trustee to the depositor of 15,000 trust shares, the depositor paid to the trustee \$33,000 which became the nucleus of the

²⁶ As of January 8, 1932, the collateral fund of United Insurance Trust Shares contained \$224,255.49 in cash awaiting investment in addition to stocks of the following companies: Continental Casualty Company, Phoenix Insurance Company, Franklin Fire Insurance Company, and St. Paul Fire and Marine Insurance Company. (Moody's Manual of Investments, Banks, etc., 1932, p. 1587.)

In November 1932, one Frank Cohen, a promoter, was in the process of organizing an insurance company, Lloyd's Insurance Company of America. Having secured control of the United Insurance Trust Shares through control of the depositor, he proceeded to cause the liquidation of all the stocks in the collateral fund of that trust and, together with the \$224,255.49 of cash, invested the proceeds in the capital stock of his newly formed insurance company, leaving the collateral fund consisting entirely of this newly purchased stock. These transactions took place between January 8, 1932, and December 1, 1932. (Moody's Manual of Investments, Banks, etc., 1932, p. 1003.)

On August 17, 1933, the New York State Superintendent of Insurance placed Lloyd's Insurance Company of America in liquidation. (Moody's Manual of Investments, Banks, etc., 1934, p. 1104.)

²⁷ Moody's Manual of Investments, Banks, etc., 1932, pp. 1587-8.

²⁸ See Ch. X, Costs to Investors and Profits to Sponsors, *infra*.

²⁹ See Appendix K.

³⁰ Trust agreement for Deposited Bank Shares, N. Y., Series A, Art. V, Sec. 27. (Reply to the Commission's questionnaire for this trust, Exhibit 18 (a).)

surplus fund.³¹ Thereafter the proceeds of all eliminations and of all sales of property received on the underlying securities other than in cash were paid into the surplus fund. Whenever new units were created a sum in cash was paid to the trustee representing the then proportionate value per unit of the surplus fund and the trustee thereupon purchased trust shares at the offering price minus the loading charge.

Emlen S. Hare, former president of Transcontinent Shares Corporation described the process as follows in his testimony: ³²

A. * * * This is the creation of the unit, and a portfolio of stocks consisting of 40 shares of Bank of Manhattan, 5 of New York & Trust and 30 of Bankers' Trust and all of the rest of them, were handed to the trustee on December 3, 1935, and in addition a check for \$7,885.

The value of the underlying stocks, at current retail prices was about \$29,000, and to that was added the \$7,885 making the total value of the unit at that time, \$36,961.

The trustee then delivered to the depositor, 15,000 trust shares.

The depositor then sold to the trustee, less the 8-percent load, trust shares that he could buy for \$7,885.

The depositor then had about 12,000 trust shares, roughly, which he sold to the public with the 8-percent load.

From this surplus fund, consisting almost entirely of trust certificates, a distribution in trust certificates (or its cash equivalent) amounting to 2½% of the number of shares held by such holder was made periodically to the certificate holders. The value of the investors' holding, however, was not increased by this periodic distribution, although the investor may reasonably have believed that he was receiving a dividend.³³

IX. ACCUMULATIONS

The sources of the periodic distributions (exclusive of the portions representing equalization payments)³⁴ on the trust shares were the accumulations on the underlying stocks—regular cash dividends, extra cash dividends, proceeds of the sale of stock dividends, rights, and split-ups, proceeds from eliminations of securities, and proceeds from the sale of shares of stock received for other shares as the result of mergers, consolidations, reorganizations or the sale of all or substantially all the assets of a corporation.

The "equalization payment" plan under which all fixed trusts operated was based on the equalization of the position of all investors

³¹ Id., Art. I, Sec. C. 3.

³² Public Examination, Transcontinent Shares Corporation, at 13830-1.

³³ The foregoing interpretation of the surplus fund of Deposited Bank Shares, N. Y., Series A, is based on an analysis of the trust agreement for this trust dated September 1, 1930, Art. V. There was a difference of opinion as to the nature of this surplus fund, however, among the witnesses for the sponsor, namely, Emlen S. Hare, former president of the depositor; Robert C. Walker, attorney for the depositor; and William R. Terres, treasurer of the depositor, as shown by the transcript of the Public Examination, Transcontinent Shares Corporation, at 13829. See Ch. VI, The Trust Agreement, p. 98, note 16, *supra*.

³⁴ For a description of equalization payments see this chapter, p. 114, *supra*.

regardless of the time when an individual investor acquired his trust certificate and thereby his interest in the trust. The arrangement was adopted to avoid the maintenance of separate trust accounts for each investor.

This plan required, in effect, the advance of sums by new investors to the trustee for the equalization of distributions up to a distribution date and thereupon the return of the sums by the trustee to investors. For example, the distribution dates for Corporate Trust Shares (Original Series) were December 31 and June 30. The trust shares were offered on June 6, 1929, at \$11.50 per share. Of this amount, approximately \$1.15 represented the amount paid by the investor at that date to equalize the dividends which had accumulated on the underlying securities since January 1. On June 30, \$1.16½ was distributed to all the certificate holders.³⁵ The practice of most depositors, prior to the requirements promulgated by the New York Stock Exchange on May 7, 1931, for those trusts on the "unobjectionable list," was to include this so-called equalization fund as part of the base value on which the loading charge was computed.³⁶

³⁵ Public Examination, Ross Beason & Co., Inc. Group, at 11084, et seq. See also Ch. IX, Distribution of Fixed Trust Shares, pp. 155-6, *infra*.

³⁶ See Ch. X, Costs to Investors and Profits to Sponsors, p. 166, *infra*.

Chapter VIII

ELIMINATIONS AND SUBSTITUTIONS OF UNDERLYING PROPERTY

No fixed trust was completely fixed or rigid. Necessarily, changes with respect to the underlying securities or underlying corporations entailed some modification of the prescribed list of underlying securities. Among such changes were mergers, consolidations, dissolutions, or sale of all the property of corporations, reclassifications of their stocks, the declaration of dividends in the form of property and the granting of rights to subscribe to new stock. When, for example, Drug, Incorporated, the stock of which was in the units of a number of fixed trusts, was divided in 1933 into five distinct corporations—Sterling Products, Inc., United Drug, Inc., Vick Chemical, Inc., Bristol-Meyers Co., and Life Savers Corporation¹—changes, of course had to be effected in the portfolios of the trusts with respect to the stock of Drug, Incorporated.

On the basis of fixity or rigidity of their portfolios, fixed trusts may be divided into four classes:

(a) The type of trust in which no provision is made for elimination or substitution of the underlying securities except in the case of merger, consolidation, reorganization or sale of all the property of an underlying corporation. The early fixed trust, Diversified Trustee Shares, Original Series, was of this type.²

(b) The type of trust in which the underlying securities were eliminated on the basis of some mechanical test such as the passage of a dividend for a definite period. Examples of this type of trust are North American Trust Shares, 1953³ and Corporate Trust Shares, Original Series.⁴

(c) The third type of trust is one in which elimination of underlying securities is placed within the discretion of the depositor or the trustee, or both. Examples of this type of trust are Cumulative Trust Shares⁵ and the later series of North American Trust Shares and the modified series of Corporate Trust Shares.

(d) The fourth type of trust is one in which not only eliminations of underlying securities were placed within the discretion of the depositor but substitutions could be made by the depositor. Examples of this type of trust are the comparatively early trust, United

¹ Moody's Manual of Investments, Industrial Securities, 1934, p. 1021.

² Trust agreement for Diversified Trustee Shares, Original Series, dated March 16, 1925. (Reply to the Commission's questionnaire for this trust, Exhibit D.)

³ Trust agreement for North American Trust Shares, 1953, Art. III, Sec. 5B. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

⁴ Trust agreement for Corporate Trust Shares, Original Series, Art. III, Sec. 12. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

⁵ Trust agreement for Cumulative Trust Shares, Art. IV, Sec. 4.18. (Reply to the Commission's questionnaire for this trust, Exhibit B-1.)

New York Bank Trust Shares (formerly Bank Stock Trust Shares, Series C-3),⁶ dated February 27, 1928, and certain later trusts, such as Trusteed Industry Shares,⁷ which were brought out in 1933 or later. This type of trust did not differ to any great extent from the restricted management type trust.

I. BASES OF ELIMINATION

The nature of the provisions for elimination of underlying securities was the principal factor which gave an individual character to a trust. These different elimination provisions were stressed by sponsors to indicate the superiority of a particular trust over other fixed trusts. Provisions for eliminations, therefore, were the subject of much experimentation by sponsors.⁸

⁶ Moody's Manual of Investments, Banks, 1932, p. 1587.

⁷ Trust agreement for Trusteed Industry Shares, Art. IV, Sec. 4.18. (Reply to the Commission's questionnaire for this trust, Exhibit 18C.)

⁸ The wide diversity of provisions for elimination found in various trust agreements is indicated by the following examples:

Eliminations of underlying securities were to be made in the various trusts under the following conditions, among others:

a. If Moody's rating of any deposited stock fell below Baa, except of stocks received upon reclassification of shares or consolidations, mergers, or sale of all of the property of an underlying company, the stock to be sold within thirty days after publication of the change in rating exclusive of all days on which the New York Stock Exchange was closed. If, in addition, the manager recommended and the depositor corporation determined it was for the best interests of the corporation that any or all stocks should be sold and the proceeds reinvested, the depositor could in its absolute discretion and without limitation on its part sell such securities. (Trust agreement for First Custodian Shares, August 1, 1930, Art. III, Sec. 6, given in the summary statement supplied the Commission for this trust, Exhibit A.) The sponsor, Allied General Corporation (formerly Insuranshares Corporation), stated in its offering circular (Id., Exhibit B): "The power of substitution of securities, limited as above described, and the power to retain stock dividends and stock split-ups, as developed in First Custodian Shares, are outstanding and original features."

This provision, however, compelled the elimination of 13 of the original 30 stocks in 1932 at very low points in the market. Even a stock substituted for an eliminated one was itself eliminated in 1932. (Id., Exhibit C.)

This trust was terminated on March 31, 1933 (Poor's Manual, Banks, 1934, p. 2897).

b. If Moody's Investors Service (or if Moody's Investors Service should discontinue to rate the stocks, then any other reputable service acceptable to the depositor and the trustee) should reduce the rating of any stock held as part of the trust unit to a point below the rating of such stock at the inception of the trust, unless within fifteen days after the trustee received notice from the depositor to sell such stock, the trustee should receive the opinion in writing of a majority of three independent investment counsel selected by the depositor that from the standpoint of an investment for the period ending December 31, 1940, such stock should not be eliminated from the trust unit (Trust Shares of America, July 1, 1930). An amendment to the trust agreement for June 20, 1931, added the rigid criterion of passage of dividends for one year. (Cf. Moody's Manual of Investments, Banks, 1931, p. 1751, and trust agreement for Trust Shares of America as amended as of June 20, 1931, given in the reply to the Commission's questionnaire for Trust Shares of America, Schedule D, Art. III, Secs. 7 and 8.)

c. If a company showed an unsatisfactory change that might result in decreased earnings (Collateral Trustee Shares, Series A, January 31, 1928). (Moody's Manual of Investments, Banks, 1932, p. 1584.)

d. If any company should report for any fiscal year net earnings lower than the average net earnings reported in the three fiscal years immediately preceding (Leaders of Industry Shares, Series B, July 15, 1930). (Id., at 2145.)

e. If the net earnings of any company for any year ending December 31, 1933, or any December 31 thereafter, were less than its net earnings for the next preceding year, and also its net earnings for the two-year period ending such December 31st were less than 66⅔% of the net earnings for the two-year period immediately preceding such later two-

II. REASONS FOR VARIATION IN BASES OF ELIMINATION

The wide variety of these elimination provisions is due to several factors, among which were: (a) The sales value of a trust which seemed to be different from other trusts, and the necessity for creating new "models" or "merchandise" to sell when the existing trusts lost their appeal. This factor apparently dictated some of the provisions which turned out to be most impracticable and most misleading.⁹ (b) Some mechanical means for the elimination of underlying securities had to be devised since many trustees would not at first countenance any discretion and were unwilling to assume responsibility for eliminations.¹⁰

year period, but, in case of any company not a railroad or public utility operating company or public utility holding company, only if the working capital of such company as at the end of the said later two-year period was also less than 66⅔% of the average of the working capital as at the end of each year of the two-year period next preceding such later two-year period; if the net earnings of such company showed decline in each of three successive years (the last of such years ending December 31, 1933, or any December 31 thereafter) and net earnings for the last year of such three-year period amounted to less than 90% of the net earnings for the year next preceding such three-year period (Trust agreement for Income Trust Shares, July 11, 1930, Art. III, Sec. 14 (a) and (b), given in the summary statement supplied the Commission for this trust, Exhibit 1).

f. If, in the opinion of the depositor, the condition of any company was such that the capital and surplus was endangered (ABC Trust Shares, Series E, January 1, 1931. Moody's Manual of Investments, Banks, 1932, p. 2194).

g. If the current value of a stock unit reached 200% of a basic value specified in the trust agreement; and all shares of common stock were to be sold in case the current value of shares should reach 300% of a basic value specified in the trust agreement (Trust agreement for Five-Year Fixed Trust Shares, March 1, 1931, Art. III, Sec. 11 (a) and (b), given in the reply to the Commission's questionnaire for this trust, Exhibit C).

h. If a stock advanced to a price seemingly beyond its intrinsic worth. An amount not less than the cost of the stock was to be reinvested in a stock on a reserve list. Notice of proposed changes was to be given to shareholders, but no change was to become effective if the holders of more than 25% of the outstanding shares objected (Collateral Trustee Shares, Series A, January 31, 1928). (*See par. c, supra.*)

i. If for any reason a deposited stock became subject to taxation by the State of Ohio unless all or substantially all of the deposited stocks should become subject to taxation by the State of Ohio at a uniform rate of not exceeding five mills per annum on each dollar of the taxable value thereof (Trust agreement for Buckeye Trust Shares, Series A, August 1, 1930, Art. III, Sec. 3.06 (c), given in the summary statement supplied the Commission for this trust).

j. If upon application of a trust shareholder for the elimination of a security, a majority of three leading investment services satisfactory to the trustee recommended elimination. In the event that any change in the portfolio was authorized, new certificates were to be issued to each trust shareholder making the change, an adjustment in cash being made at that time between the trust shareholder and the trustee for any difference in the value of a stock eliminated and a stock substituted. Any trust shareholder who for any reason did not make an authorized change could retain the certificate he then held and the portfolio represented thereby, but should have the right at any time to exchange his certificate for a certificate representing the then current portfolio (Universal Trust Shares, July 1, 1930. Moody's Manual of Investments, Banks, 1932, p. 2203).

k. Upon recommendation of the depositor and a 60% vote of shareholders present in person or by proxy at a meeting called for consideration of the matter (Trust agreement for Business Recovery Trust Shares, February 12, 1931, Art. III, Sec. 7, given in the summary statement supplied the Commission for this trust, Exhibit 2).

⁹ One trust emphasized the "democratization" of trusts by giving investors a vote on the question as to whether elimination should be considered. See discussion this chapter, p. 139, *infra*.

¹⁰ See Ch. V, The Trustee, p. 84, note 34, *supra*. See also Appendix O, pp. 388-9, *infra*.

The unworkable nature of many of the provisions for elimination of underlying securities became so evident shortly after the market break of 1929 that sponsors themselves sought to correct the defects. The correction, however, was often a very profitable process for the sponsors, because, in most cases, the sponsors brought out new fixed trusts with new elimination provisions. Because of the deficiencies in the elimination provisions in the old trust agreements, holders of shares of existing trusts were induced to exchange their shares into those of the new models. Upon such exchanges or switches, the certificate holders were, of course, charged another load. Finally, when the program of exchanges into new trusts met strong sales resistance, selling of the fixed trust shares was generally abandoned by sponsors who thereupon urged investors to make a final exchange of their trust certificates for the shares of restricted management trusts, trusts which were usually created by the sponsors of the fixed trusts.¹¹

III. EXAMPLES OF PROVISIONS FOR ELIMINATION

A. Super-Corporations of America Trust Shares

Of Super-Corporations of America Trust Shares, ultimately six series of trust shares were issued, two series at a time. The trusts of each pair of series, while differing in their treatment of noncash receipts on the underlying stocks, had identical provisions respecting eliminations.¹²

In Series A and B, issued in 1930, eliminations were to be made in the event of two major contingencies. (a) If a constituent company failed to pay a usual dividend on its stock, the depositor in its dis-

¹¹ See Ch. XII, Exchanges of Trust Shares, p. 209, *infra*.
¹² The following table shows the bases of elimination of securities in Super-Corporation of America Trust Shares, and indicates the different tests and methods adopted within the two-year period, 1930 to 1932, for these trusts:

TABLE 20.—*Super-Corporations of America Trust Shares*
[Bases of eliminations of underlying securities]

	Series A (1930)	Series B (1930)	Series C (1931)	Series D (1931)	Series AA (1932)	Series BB (1932)
Passage of usual dividend.	Sale in discretion of depositor.	Same as Series A.	-----	-----	-----	-----
Passage of dividend for 6 months.	Mandatory sale by trustee.	do.	-----	-----	-----	-----
Unavailability for purchase through brokers.	Sale in discretion of depositor.	do.	Sale in discretion of depositor.	Same as Series C.	Sale in discretion of depositor.	Same as Series AA.
Unavailability by being delisted.	do.	do.	do.	do.	do.	Do.
Desirability as a long-term investment impaired.	-----	-----	do.	do.	Sale in discretion of depositor with approval of counsel.	Do.
Reduction of supply of stock as to affect abnormally market price.	-----	-----	do.	do.	do.	Do.
Speculative factors making elimination advisable.	-----	-----	-----	-----	do.	Do.
Unbalancing of the unit.	-----	-----	-----	-----	do.	Do.

cretion could direct the trustee in writing to sell all of the shares of such company unless payment of usual dividends were resumed by such company prior to delivery of the written directions to sell. If such company failed to pay dividends for a period of six months, after written notification by the depositor of the passage of usual dividends, the trustee at the expiration of the period was to sell all shares of such company. (b) If the stock of any underlying company became unavailable by reason of not being listed on the New York Stock Exchange or New York Curb Exchange, or by reason of inability of the depositor, for a period of 10 days exclusive of legal holidays, to purchase the desired quantity on the above-mentioned exchanges through at least five different brokerage houses, the depositor could in its discretion direct the trustee in writing to sell such stock. The net cash proceeds of such sale were credited to the distribution fund.¹³

In Series C and D, created in 1931, the bases of elimination were broadened and the process made more flexible. In these trusts the depositor could direct the trustee to sell any of the underlying stocks if: (a) in the depositor's opinion, the value or desirability of such stock as a long-term investment had been or was likely to be adversely affected to such an extent as to render its elimination advisable, but such sale was to be solely for the purpose of protecting the investment of the holders of the trust shares and not for the purpose of making a profit; or (b) if the stock of any company became unavailable by reason of the fact that shares of any of the underlying companies ceased to be listed or traded in on the New York Stock Exchange or the New York Curb Exchange, or (c) the supply thereof had been so reduced as in the depositor's opinion to affect abnormally their market price, or (d) such shares were not available for purchase at least five days, exclusive of days on which the exchanges were closed, through four different brokerage houses for the purpose of making deposits of additional units, the depositor could instruct the trustee to sell such stock. In case a stock was eliminated, the trustee was to credit net proceeds of the sale to the current distribution fund.¹⁴

Finally, in Series AA and BB, issued in 1932, a new set of criteria for elimination of underlying securities was adopted and the process made still more flexible. The trust agreements provided for elimination if the depositor should at any time be of the opinion that all or part of the stock of any one or more of the constituent companies should be eliminated for any one or more of certain reasons, considered solely from the point of view of preserving the sound investment character of the stock units as an investment then to be made and not the making of a profit from the sale of such stock. These "sound investment" criteria were: (a) that such stock had been or was

¹³ Trust agreement for Super-Corporations of America Trust Shares, Series A, Art. III, Sec. 3.05. (Reply to the Commission's questionnaire for this trust, Exhibit B.)

Trust agreement for Super-Corporation of America Trust Shares, Series B, Art. III, Sec. 3.06. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

¹⁴ Trust agreement for Super-Corporations of America Trust Shares, Series C, Art. III, Sec. 3.05. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

Trust agreement for Super-Corporations of America Trust Shares, Series D, Art. III, Sec. 3.06. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

likely to be adversely affected from the point of view of an investment which was to be held until January 15, 1952, to such extent as to render such elimination advisable; (b) that such stock had been affected as an investment medium by reasons of speculative factors governing its market price to such extent as to render its elimination advisable; (c) that the amount of such stock available in the market had been so reduced as to affect abnormally the market price thereof; and (d) that the shares of such stock in each stock unit had come to represent such a large proportion of the total value of a stock unit as to render the stock units unbalanced from the point of view of sound investment principles. In all these instances, the depositor was empowered in its discretion to notify the trustee to eliminate the security but the trustee had to obtain from an independent investment counsel, satisfactory to the trustee, an opinion with respect thereto. If the opinion of such counsel confirmed the opinion of the depositor, the trustee was to sell all or part of such shares of stock, in the manner provided in the trust agreements. In case the depositor ceased to engage in business, such elimination could be made by the trustee with the concurrence of independent investment counsel. In addition, the depositor could also direct the elimination of any underlying stock which (e) had become unavailable by reason of being delisted, or (f) if the depositor had tried to purchase such stock for five successive days on the New York Stock Exchange or New York Curb Exchange, through at least four different brokerage houses, without success. In case of the sale of any security, the net proceeds were to be credited to the distribution fund.¹⁵

¹⁵ Trust agreement for Super-Corporations of America Trust Shares, Series AA, Art. III, Sec. 3.11. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

Trust agreement for Super-Corporations of America Trust Shares, Series BB, Art. III, Sec. 3.11. (Reply to the Commission's questionnaire for this trust, Exhibit A.)

The following table shows the effect of the sale of the underlying securities by reason of passing of dividends as provided in the trust agreements in the case of Series A and Series B. These sales were made in some cases at very low points in the market. The total proceeds of the sales were \$760.50 per unit. All of these stocks, with the exception of those of New York Central Railroad Company and Southern Pacific Company, had made substantial recoveries in price by December 31, 1935, but were no longer, of course, in the trust portfolio.

TABLE 21.—Sale of securities as the result of passage of dividends *
[Super-Corporations of America Trust Shares, Series A and Series B]

Title of security	Number of shares sold	Closing price at date of offering, May 1, 1930, per unit	Date sold	Closing price at date sold, per unit	Low price in period May 1, 1930, to Dec. 31, 1935, per unit	Closing price at Dec. 31, 1935, per unit
U. S. Steel.....	4	\$713.00	Dec. 6, 1932	\$133.00	\$85.00	\$194.00
Westinghouse Electric.....	4	734.00	Oct. 26, 1932	103.00	62.50	390.00
American Power & Light.....	4	440.00	Feb. 28, 1933	18.00	12.00	35.00
Atchison, Topeka & Santa Fe.....	4	876.00	Nov. 23, 1932	157.50	71.50	239.00
New York Central.....	4	678.00	Sept. 9, 1932	118.50	35.00	114.00
Pennsylvania R. R.	8	606.00	Nov. 23, 1932	103.00	52.00	251.00
Southern Pacific.....	4	470.00	Sept. 9, 1932	127.50	26.00	97.00
Total per unit.....	-----	4,517.00	-----	760.50	344.00	1,320.00

* Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A and Series B, Table 7.

B. Trusts Sponsored by Distributors Group, Incorporated

The same experimentation in connection with bases of elimination of underlying securities may be found in the trusts sponsored by Distributors Group, Incorporated. In North American Trust Shares, 1953, which was set up on January 2, 1929, the first of a series, the trust agreement provided for the elimination of an underlying security in the discretion of the depositor on written notice to the trustee, if the company failed to pay a usual dividend, unless prior to the giving of the written notice, dividend payments were resumed. If such company failed to pay a dividend for a period of 100 days after the failure to pay a usual dividend, the trustee was required to sell the shares of such stock. Proceeds were credited to currently distributable funds.¹⁶

The effect of this provision (which is similar to the one found in Series A and Series B of Super-Corporations of America Trust Shares) was to eliminate 12 out of the original 28 securities in the portfolio, all at low market points in the depression.¹⁷

The provisions for elimination in North American Trust Shares, 1953, were criticized by the sponsors themselves in a booklet entitled "The Present Status of North American Trust Shares (Original Issue)," prepared by Distributors Group, Incorporated:¹⁸

¹⁶ Trust agreement for North American Trust Shares, 1953, Art. III, Sec. 5. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

¹⁷ The original cost of the stocks eliminated was \$6,195.12 per unit. The total proceeds from the eliminations was \$950.00 per unit. The low for the depression of the value of the stocks eliminated was \$466. The market value of the same stocks as of December 31, 1935, was \$1,979.00, an increase of 100% in value over the proceeds of the eliminated securities which were, of course, no longer in the unit.

TABLE 22.—Sales of securities as a result of passage of dividends ^a

[North American Trust Shares, 1953]

Title of security	Num-ber of shares sold	Low price at date of offering, Feb. 14, 1929—adjusted price per unit	Date sold	Closing price at date sold, per unit	Low price in period Feb. 14, 1929, to Dec. 31, 1935, per unit	Closing price at Dec. 31, 1935, per unit
Atchison, Topeka, & Santa Fe.....	4	\$788.00	Dec. 23, 1932	\$146.00	\$69.50	\$239.00
Canadian Pacific ^b	4	245.12	Feb. 6, 1933	42.00	29.00	45.00
Illinois Central.....	4	574.00	Mar. 29, 1932	52.00	19.00	82.00
Louisville & Nashville.....	4	600.00	Dec. 13, 1932	88.00	30.00	235.00
New York Central.....	4	762.50	Oct. 21, 1932	90.00	35.00	114.00
Pennsylvania R. R.....	4	310.00	Oct. 3, 1932	76.00	26.00	125.50
Southern Pacific.....	4	524.00	July 4, 1932	29.50	26.00	97.00
Western Union.....	4	756.00	Nov. 17, 1932	124.50	49.50	301.00
Westinghouse Electric & Mfg.....	4	593.50	Dec. 2, 1932	97.00	63.50	390.00
American Radiator & S. S. ^b	4	193.00	Nov. 1, 1932	28.00	12.50	99.50
U. S. Steel.....	4	689.50	do.....	136.00	85.00	194.00
Standard Oil of New York.....	4	159.50	Oct. 20, 1933	41.00	21.00	57.00
Total per unit.....	-----	6, 195.12	-----	950.00	466.00	1, 979.00

^a Reply to the Commission's questionnaire for North American Trust Shares, 1953, Table 7.

^b Stock split four for one; excess shares disposed of prior to elimination.

¹⁸ Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 1006, J-3. The booklet was distributed in connection with an exchange offer.

As a result of the automatic elimination clause of the Trust Agreement, twelve of the twenty-eight stocks originally comprising the underlying securities have been sold. Although four of these issues have paid dividends since elimination, it is not possible for them to be repurchased for the Trust. Diversification has been altered radically by these sales. Economic events of the past and potential developments of the future suggest that holders of the trust shares take positive steps to protect their investment.

Distributors Group, Incorporated, sponsor of the Trust, has made a number of efforts to inform all holders of this impairment of their originally well diversified list. Of the approximately 22,000,000 shares of North American Trust Shares outstanding at one time, over 89% have been liquidated. The number of trust shareholders has declined from some 150,000 to around 14,000. This company wishes again to point out that it considers the investment merit of the original issue of North American Trust Shares to have been gravely affected.

After stating that the effect of distributions of capital to certificate holders had been "to soften the effects of declining prices to the investor" and that the major portion of total distributions had consisted of a return of capital (only \$1.16 per share or 24.5% of the \$4.733 distributed per share to certificate holders from 1929 to 1934 had been from cash dividends on the underlying securities), the booklet pointed out that most of the 12 stocks eliminated, after being eliminated, had recovered in value and four had resumed dividends and stated:¹⁹

A dividend upon one of these issues, Socony-Vacuum, was declared exactly fourteen days after it had been sold for dividend omission as required by the Trust Agreement, yet the sale was compulsory.

The sponsors in the booklet also indicated that the 12 stocks eliminated had upset the original diversification and that, as a result of the absence of important recovery groups in the portfolio, "it seems apparent that ownership of the trust shares as now constituted no longer offers a suitable participation in the nation's industrial future."²⁰

The following material (Chart VI) contained in the booklet indicates the extent to which the market performance of eliminated stocks was better than the performance of stocks remaining in the unit. The solid line shows the performance of the 12 eliminated stocks and the broken line shows the performance of those stocks retained.

The sponsors in this booklet concluded:²¹

This rigid and mechanical method of administering the trust is now seen to operate blindly and without regard for the investment attractiveness of the underlying stocks. It is generally recognized as the primary fault of the early trusts of this type. Since improvements cannot be incorporated in the Trust Agreement, however, the only course thoughtful investors may follow who wish to provide intelligently against uncertainties of the future is to liquidate their shares and reinvest their funds elsewhere.

Such a course has been recommended by Distributors Group, Incorporated, a number of times in the past. In view of the present economic situation and the advisability of investors protecting themselves against at least the possibility of inflation, if not inflation itself, this protective step is recommended

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

again. In our opinion, ownership of North American Trust Shares provides inadequate diversification and gives no assurance that during a sustained period of rising prices even average appreciation will be realized.

At the time this booklet was distributed, the sponsors of North American Trust Shares were making a series of offers to switch the holders of North American Trust Shares, 1953, into other trusts created by these sponsors.²² This public criticism by the sponsor of its own fixed trust may in part have been, of course, motivated by a desire of these sponsors to convince investors of the undesirability of the shares held by them and thereby induce them to exchange their shares of the old trusts for the shares of new trusts created by the sponsor.

CHART VI

[Dividends v. Appreciation, North American Trust Shares, 1953]



Cumulative Trust Shares, publicly offered in October 1930, and evidently based on the experience of North American Trust Shares, 1953, after the market break in 1929, provided for considerable flexibility for elimination of underlying securities.

Eliminations were to be made in the event that the shares of stock of any company constituting a part of the unit should become unavailable—a stock being deemed unavailable if the depositor had made an unsuccessful effort during a period of at least 10 days to purchase the necessary number of shares on each exchange on which the stock was listed and in the over-the-counter market in the City of New York through at least 5 different member firms of the New York Stock Exchange. In addition, the depositor could certify to the trustee that in its opinion any stock then held by the trustee as

²² See Ch. XII, Exchanges of Trust Shares, p. 213, for the series of offers of exchange made by Distributors Group, Incorporated, to holders of North American Trust Shares, 1953.

part of the stock of the unit should be eliminated by reason of the unsatisfactory position of the company or the industry concerned from a long-time investment standpoint and solely for the purpose of protecting the investment of the holders of the certificates. However, prior to such certification by the depositor it obligated itself to secure opinions, statistics, and other data which the depositor or the trustee deemed desirable from one or more independent investment counsel satisfactory to the trustee. On receipt of such certification, the trustee in its sole and uncontrolled discretion was to decide whether or not the stock referred to should be eliminated. The net proceeds of any eliminations were to be credited to currently distributable funds.²³

In October 1931, when the twin trusts, North American Trust Shares, 1955 and 1956, were set up, the power to eliminate underlying securities was also vested in the depositor with limited discretion. The depositor, after first obtaining a confirmatory opinion from independent investment counsel satisfactory to the trustee, could certify to the trustee in a writing signed by its president or any vice president that in its opinion from the viewpoint of an investment to be held until June 30, 1955, and in the case of the second trust, until June 30, 1956, and solely for the purpose of protecting and preserving the quality of the investment, all or any part of any stock then held by the trustee as part of the stock unit should be eliminated. On receipt of such certificate, the trustee was to consult another independent investment counsel and, if the latter concurred in the recommendation, the trustee was to sell the stock. If the counsel did not concur, the trustee in its sole and uncontrolled discretion was to decide whether or not the stock should be eliminated. Further, if the depositor notified the trustee in writing that it no longer intended to act under its power to recommend eliminations, the trustee was to appoint two independent investment counsel to consider eliminations. On receipt of an opinion from both of such counsel recommending elimination from the point of view of an investment to June 30, 1955—in the case of the second trust until June 30, 1956—and solely for the purpose of preserving the quality of the investment, the trustee in its sole and uncontrolled discretion could determine whether or not the stock referred to in such opinions should be eliminated.²⁴

The same provisions were incorporated in the trust agreement for North American Trust Shares, 1958, although it was dated two years after Series 1955 and 1956.²⁵ Presumably no further improvements in the machinery for eliminations of underlying securities which might have become undesirable developed during the intervening period.

²³ Trust agreement for Cumulative Trust Shares, Art. IV, Sec. 4.18. (Reply to the Commission's questionnaire for this trust, Exhibit B-1.) The power to decide as to eliminations in certain contingencies granted to the trustee in a few trust agreements was the only discretionary power delegated to the trustee.

²⁴ Trust agreement for North American Trust Shares, 1955, Art. IV, Sec. 4.11. (Reply to the Commission's questionnaire for this trust, Exhibit B-1.)

Trust agreement for North American Trust Shares, 1956, Art. V, Sec. 5.10. (Reply to the Commission's questionnaire for this trust, Exhibit B-1.)

²⁵ Trust agreement for North American Trust Shares, 1958, Art. III, Sec. 3.11. (Reply to the Commission's questionnaire for this trust, Exhibit B-1.)

C. Trusts of the Ross Beason & Co., Inc. Group

A similar history of experimentation may be found in the group of trusts sponsored by Ross Beason & Co., Inc., and Smith, Burris and Company. In the first one, Corporate Trust Shares, purely mechanical factors were the bases of elimination of underlying stocks. In Corporate Trust Shares, Original Series, brought out in June 1929, if an underlying company in the trust portfolio failed, in effect, to make a distribution for a period of twelve months and thirty days, the trustee was to sell the stock of such company unless prior to the first sale the trustee learned that a dividend had been declared and that this dividend would be payable not later than thirty days after the declaration.²⁶ While this provision was an improvement over the provision in the trust agreement of North American Trust Shares, 1953, because it extended the period between the passage of a dividend and the sale of security, the results of the mechanical elimination were again unfortunate. Nine out of the original 28 stocks in the unit were eliminated, also at low points in the depression.²⁷

In July 1931, when the two trusts, Corporate Trust Shares, Accumulative Series, and Corporate Trust Shares, Series AA, were developed, an attempt was made to solve the problem of elimination by an even more elaborate series of mechanical tests. Despite the danger that was becoming apparent in 1931 in the use of mechanical factors for elimination of securities and the rejection of these tests by Distributors Group, Incorporated, the sponsors of the series

²⁶ Trust agreement of Corporate Trust Shares, Art. III, Sec. 12. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

²⁷ Id., Item 35, Table 7.

The following table (Table 23) indicates that the original cost of the securities eliminated was \$5,495.04 per unit. The total proceeds from the eliminations were \$1,163 per unit. The low for the depression of the value of the stocks eliminated was \$391. The market value of the same stocks as of December 31, 1935, was \$1,751.52, or a 50% increase over the proceeds of the eliminations.

TABLE 23.—*Sales of securities as the result of passage of dividends*

[Corporate Trust Shares]

Title of security	Number of shares sold	Low price at date of offering June 6, 1929—adjusted price per unit	Date sold	Closing price at date sold per unit	Low price in period June 6, 1929, to Dec. 31, 1935, per unit	Closing price at Dec. 31, 1935, per unit
Atchison, Topeka & Sante Fe.....	4	\$861. 50	July 1, 1933	\$274. 00	\$71. 50	\$239. 00
Illinois Central R. R.....	4	550. 00	Oct. 1, 1932	83. 00	17. 00	82. 00
Louisville & Nashville R. R.....	4	568. 00	Mar. 12, 1933	113. 00	30. 00	235. 00
New York Central.....	4	775. 00	Dec. 2, 1932	83. 00	35. 00	114. 00
Southern Pacific.....	4	524. 00	Feb. 1, 1933	71. 50	26. 00	97. 00
U. S. Steel.....	4	673. 50	Apr. 29, 1933	186. 50	85. 00	194. 00
Westinghouse.....	4	611. 00	Mar. 20, 1934	151. 50	62. 50	390. 00
Western Union.....	4	756. 00	May 15, 1933	162. 00	49. 50	301. 00
American Radiator ^b	4	176. 00	Apr. 30, 1933	38. 50	12. 50	99. 50
Total per unit.....		5, 495. 00		1, 163. 00	389. 00	1, 751. 50

^a Estimated: Stock exchange closed Mar. 12, 1933.

^b Stock split 4 for 1; excess shares sold prior to elimination.

of Corporate Trust Shares apparently believed that mechanical factors were preferable to reliance on the discretion of the depositor and the opinion of investment counsel. This opinion may have been based on two factors: first, the unsatisfactory performance of management investment companies which had relied on such factors, and, second, the reluctance of large trust companies to act as trustees for any trusts that required more than custodial duties.²⁸

The contingencies which would bring about the elimination of a stock in Corporate Trust Shares, Accumulative Series and Series AA, brought out in 1931, were: (a) if the volume of trading in such stock on any five days on which the New York Stock Exchange or the New York Curb Exchange was open was less than 2,500 shares; (b) if a stock was delisted and not readmitted to the list or admitted to unlisted trading privileges within three days; (c) if the market value of a stock exceeded an amount equal to 30 times the annual current rate of regular cash dividends on a dividend paying stock; (d) if the current annual dividend paid on a common stock was less than $3\frac{1}{3}\%$; (e) if the current annual rate of regular cash dividends had been reduced or such regular dividends had ceased; and (f) if the market value of one share of stock of the portfolio company multiplied by the number of such shares in a unit exceeded an amount equal to 10% of the total market value of stocks of all the portfolio companies. Upon the happening of any of these contingencies, the depositor was to give written notice to the trustee within 90 days that the depositor had found it impracticable or inadvisable to purchase shares of stock of the underlying company and the trustee was to sell all of the shares of such constituent company.²⁹ Series AA also continued the test for elimination found in the Original Series based on passage of dividends.

The experience of these trusts soon showed that if opinions of experts were unsatisfactory, mechanical factors, which seemed desirable at the moment, were even worse. For example, among the stocks eliminated from Accumulative Series and Series AA at comparatively low prices were the stocks of American Smelting and Refining Company, United States Steel Corporation and Westinghouse Electric & Manufacturing Company,³⁰ stocks representing basic industries which have been market leaders since elimination.

On September 23, 1932, the trust agreements of these two series of trusts were modified, and discretion of the depositor, although resisted up to this time, was finally made the controlling factor for elimination. New provisions for elimination were substituted which provided that if, in the opinion of the depositor, it would be inadvisable, from the standpoint of the preservation of the sound investment character of the stock units for the life of the trust agreement, to continue to hold all or a specified portion of the shares of stock of a constituent company, then shares of such stock, to the extent

²⁸ See Ch. V, The Trustee, pp. 84, 88, *supra*.

²⁹ Trust agreement for Corporate Trust Shares, Accumulative Series, Art. II, Sec. 11. (Reply to the Commission's questionnaire for this trust; Exhibit B.)

Trust agreement for Corporate Trust Shares, Series AA, Art. II, Secs. 11 and 12. (Reply to the Commission's questionnaire for this trust, Exhibit B.)

³⁰ Reply to the Commission's questionnaire for Corporate Trust Shares, Accumulative Series and Series AA, Table 7.

specified by the depositor, should be sold by the trustee. The opinion of the depositor was to be based solely on the preservation of the sound investment character of the stock unit and not the making of a profit by holders of trust shares. Net proceeds of such sale were to be included in the following semiannual distribution on the trust shares.³¹

D. National Trust Shares

Since the sponsors of trusts of the general type were more or less forced to use a standard list of leading securities in the portfolio, the desire to be different and to present some unusual sales feature led to the adoption in some cases of peculiar provisions of elimination.

Probably the most unsatisfactory history of provisions for elimination of underlying securities among fixed trusts is that of National Trust Shares, sponsored by Dillon, Read & Company and created under a trust agreement dated January 7, 1931.³² The provisions required the trustee to sell, after January 11, 1932, any underlying stock if the market value of such stock was less than the base value for that stock specified in the trust agreement (approximately the average market value from December 26 to December 31, 1930) and if at the same time the ratio of such market value to such base value should be less than 70% of the average of the similar ratios for the underlying stocks (after excluding approximately one-fourth of the ratios, arranged in the order of magnitude, at each extreme), all as calculated weekly by the trustee in the manner set forth in the trust agreement. Such base values were subject to adjustment in the event of certain changes in, and distributions on, the underlying stocks. The trustee was also to sell any underlying stock if, according to information deemed by it to be reliable, more than 85% of the outstanding shares of such stock should be owned by a single interest or group, or if such stock should have become otherwise unavailable for purchase as defined in the trust agreement. The net proceeds from the sale of any underlying stock eliminated as above were to be included in the next semiannual distribution. There were also the usual provisions for substitutions in the event of recapitalization, reorganization, consolidation, merger, sale of all or substantially all of the assets, or exchange of stocks of companies, stock of which was a part of the unit.

The complicated nature of the provisions for elimination did not prevent the practical destruction of the trust within two years of its creation.³³

When the impracticability of these bases for eliminations became evident, the trust agreement for National Trust Shares was modified on December 28, 1931, by a supplemental agreement between the depositor and the trustee so as to delay the date of sale of under-

³¹ Supplemental agreement for Corporate Trust Shares, Accumulative Series (Modified), Sec. 3. (Reply to the Commission's questionnaire for Corporate Trust Shares, Accumulative Series, Exhibit B-1.)

Supplemental agreement for Corporate Trust Shares, Series AA (Modified), Sec. 3. (Reply to the Commission's questionnaire for Corporate Trust Shares, Series AA, Exhibit B-1.)

³² Trust agreement for National Trust Shares, Art. II, Sec. 12. (Reply to the Commission's questionnaire for this trust, Exhibit D-1.)

³³ Footnote on following page.

lying securities under the previous provisions for elimination from January 11, 1932, to January 15, 1934, for those who made an exchange of their shares from the original series to the modified series created under the supplemental agreement.³⁴

The modification, however, still did not make the trust workable. Instead of the required sale of 31 out of the original 37 shares, 25 were required to be sold under the modification.³⁵ Therefore, on December 15, 1933, the modified shares were remodified by another supplemental agreement between the depositor and the trustee and the effective date of sale of the underlying shares under the provisions for elimination was delayed again, this time to January 11, 1937, as the base value changed.³⁶

Apparently a large number of investors managed to escape from this trust by redeeming their shares through the trustee. Total sales

³³ The following schedule shows the effect of these provisions on National Trust Shares. (Reply to the Commission's questionnaire for National Trust Shares, item 35, table 7):

Title of security (abbreviated)	Amount of securities in unit at date of inception of the trust (shares)	Eliminations		Amount of securities in each unit as at Dec. 31, 1935
		Date	Amount	
Atchison.....	100	Apr. 6, 1932	100	-----
New York Central.....	100	Jan. 15, 1932	100	-----
Pennsylvania.....	300	do	300	-----
Southern Pacific.....	100	do	100	-----
Union Pacific.....	100	Apr. 12, 1932	100	-----
American G. & E.....	200	do	200	-----
American T. & T.....	200	May 27, 1934	200	-----
Columbia Gas.....	200	Feb. 17, 1932	200	-----
Consolidated Gas.....	200	Sept. 27, 1933	200	-----
North American.....	200	June 1, 1932	200	-----
Pacific Gas.....	300	Sept. 27, 1933	300	-----
Public Service (N. J.).....	200	Oct. 4, 1933	200	-----
United Gas Imp.....	300	Nov. 21, 1933	300	-----
Standard Oil of Calif.....	200			200
Standard Oil of Ind.....	200			200
Standard Oil (N. J.).....	200			200
Allied Chemical.....	100	Jan. 20, 1932	100	-----
American Can.....	200	July 6, 1932	200	-----
American Radiator.....	400	Mar. 29, 1932	400	-----
American Smelting.....	300	Jan. 27, 1932	400	-----
American Tobacco (B).....	200			200
Borden.....	200	Aug. 16, 1932	200	-----
Corn Products.....	200			200
du Pont.....	200	July 6, 1932	200	-----
Eastman Kodak.....	100	May 16, 1932	100	-----
General Electric.....	300	May 23, 1932	300	-----
General Motors.....	200	May 10, 1932	200	-----
National Biscuit.....	200	Oct. 18, 1932	200	-----
Otis Elevator.....	200	Jan. 20, 1932	200	-----
Procter & Gamble.....	300	Dec. 13, 1932	300	-----
Sears, Roebuck.....	200	June 28, 1932	200	-----
Union Carbide.....	200	May 23, 1932	200	-----
United States Steel.....	200	Jan. 15, 1932	200	-----
Woolworth.....	200			200
Bankers Trust.....	100	Oct. 4, 1933	100	-----
Guaranty Trust.....	25	Nov. 21, 1933	25	-----
Chase National.....	100	June 1, 1932	100	-----
Mission Corporation.....				10

³⁴ Reply to the Commission's questionnaire for National Trust Shares, Exhibit D-2.

³⁵ Id., Item 35, Table 7 (Modified).

³⁶ Id., Exhibit D-4. The cost of remodification required by reason of the provisions for eliminations of underlying securities was charged against distributable income of the trust at the rate of two cents per share. This money was paid to the depositor by the trustee. (See Supplemental Indenture of National Trust Shares (Re-Modified) dated December 15, 1933, Sec. 3. Id., Exhibit D-4.)

to investors were approximately \$3,840,000. This amount included loading charges of \$268,800. The approximate loss to investors as of December 31, 1935, was \$853,300. The estimated redemptions, through the trustee and shares repurchased by the depositor, however, were very large, namely, \$1,975,000. There were still outstanding on December 31, 1935, shares valued at approximately \$600,000.³⁷

E. Universal Trust Shares

Some provisions made eliminations contingent on the vote of the shareholders. The avowed purpose of these provisions was to "democratize" the fixed trust. Since this method placed the initiation of eliminations in the hands of the lay public instead of the purportedly expert sponsors, it could have had value only as a selling argument for a certain type of investor.

In Universal Trust Shares, any shareholder could apply to the trustee for elimination of an underlying security. The application was to be submitted through the depositor to three investment counsel who by a majority vote would approve or disapprove the recommendation. This plan was called the Brown-Carpenter plan. In the event of any change in the portfolio, new certificates were to be issued to each shareholder making the change, adjustment in cash being made of any difference in value of stock eliminated and in stock substituted. If any shareholder did not approve of the change, he could retain his original certificates and in that way keep the original portfolio so far as his own proportionate holdings were concerned. Change could be made at a later date for certificates representing the then current portfolio.³⁸

F. Business Recovery Trust Shares

Business Recovery Trust Shares, dated February 12, 1931, was sponsored by Stein Bros. & Boyce, of Baltimore, and was set up to take advantage of the expected recovery in 1931 and was to expire September 1, 1936. In that trust, the procedure for elimination required first a recommendation by the depositor, in writing, to the trustee and second, a meeting of bearers of certificates called by the trustee. If 60% of the bearers present at such meeting, in person or by proxy, voted to eliminate shares of stock of any constituent company, the trustee was to sell such stock.³⁹

The foregoing analyses of the provisions for eliminations in connection with some of the leading trusts indicate that the tendency in the matter of eliminations was toward provisions for management similar to those found in management type investment companies. Discretion was finally vested in the depositor or in the depositor and investment counsel. This development was partly due to the serious impairment of trusts which relied entirely on mechanical tests for elimination of underlying securities.

³⁷ Id., Tables 4, 5, 10, and Item 36 (a).

³⁸ From Moody's Manual, Banks, etc., 1932, p. 2203. No direct information could be secured by the Commission concerning Universal Trust Shares. See Ch. IV, The Depositor, p. 59, *supra*, and Ch. XI, Realizing on Shares, p. 207, *infra*. See Ch. X, Costs to Investors and Profits to Sponsors, p. 173, *infra*. The depositor, Transcontinental Shares Corporation, was adjudged a bankrupt in 1932. (Poor's Fiscal Volume, 1938, p. 3393.)

³⁹ Trust agreement for Business Recovery Trust Shares, Art. III, Sec. 7. (Summary statement supplied the Commission for this trust, Exhibit 2.)

IV. EFFECT OF ELIMINATIONS ON THE STOCK MARKET

The provisions which made the elimination of underlying securities depend upon the happening of certain contingencies were mandatory and might require the sale of the underlying securities at a most unfavorable time when the market price was inordinately low. The result of this selling activity might be two-fold: (1) the market price of the underlying securities might be further depressed, and (2) the asset or redemption value of the fixed trust certificate which was based upon the market price of the underlying securities might be decreased so that the investor would receive less for his trust certificate upon redemption. However, it is true that the offering price of the fixed trust certificate would also be proportionately reduced. As in the case of compulsory purchases of underlying securities to create the units to be deposited, the effect of this mandatory selling due to provisions for eliminations is conjectural since the portfolio of these organizations consisted of the securities of leading corporations which were widely distributed and whose markets were very active.

The total value of all eliminations from North American Trust Shares, 1953, was \$15,634,044, and for Corporate Trust Shares (Original Series) was \$6,390,150.⁴⁰

In both these trusts,⁴¹ 12 shares of Otis Elevator Company for each unit were required to be sold by reason of a split-up of shares four for one made in February 1930. The total number of shares of Otis Elevator Company required to be sold from these two trusts was approximately 55,000 shares.⁴² While this amount is not large, as compared with the 2,000,000 shares outstanding in 1930 for the company, nevertheless, when the position of this stock is considered, sales of 55,000 shares within a short period could readily depress the market therefor. At this particular time, sales of shares of Otis Elevator Company were small. During the six days prior to the date of elimination, daily sales were as follows: 7,500, 1,900, 3,300, 2,400, 3,200, 1,400.

So, too, the shares of American Tobacco Company, Class B, of which there were approximately 3,000,000 Class B shares outstanding were eliminated from these two trusts following a two-for-one split-up in September 1930. Forty-two thousand shares were sold.⁴³ These eliminations were also made within a short period of time. With

⁴⁰ Replies to the Commission's questionnaire for North American Trust Shares, 1953, and for Corporate Trust Shares (Original Series), Table 7. In computing estimated proceeds of eliminations for Corporate Trust Shares, the low price of shares on the date on which the depositor reported to the Commission that eliminations were made, was used. There is a discrepancy of \$1,560,252 between the estimated amount of proceeds, \$6,930,150, obtained by this method and the amount reported by the depositor, \$4,829,898. The discrepancy may be explained, in part, by reason of the fact that actual sales were presumably made at lower prices than those existing on the day eliminations were reported. Sales as the result of split-ups, etc., are included with eliminations.

⁴¹ Trust agreement for North American Trust Shares, 1953, Art. III, Sec. 5, C. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

Trust agreement for Corporate Trust Shares, Art. III, Sec. 4, B. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

⁴² Replies to the Commission's questionnaire for North American Trust Shares, 1953, and for Corporate Trust Shares (Original Series), Tables 7 and 10.

⁴³ *Ibid.*

reference to the effect of mandatory provisions for the sale of securities, Hugh Bullock said:⁴⁴

Q. And if you have automatic selling provisions, such as when a dividend is passed, that operates to disintegrate the market, I suppose?

A. Very definitely.

There is an example in this country that is generally pertinent.

My memory makes me state the following as best I can remember it. I believe Ingersoll Rand was contained in the portfolio of one or two or three very large and very well known so-called fixed trusts in this country that were growing fast and the curious thing is that Ingersoll Rand kept going up as against a falling market in 1930 and 1931. Later on, when it was eliminated from these portfolios, I haven't got the prices before me, but you can imagine that it was more depressed perhaps than it should have been.

V. ADDITION OF NEW SECURITIES TO THE PORTFOLIO

In general, fixed-trust agreements did not provide for the addition of new securities not received from exchanges of shares in the fixed-trust portfolios.⁴⁵

The typical mechanisms for the addition of new underlying securities may be found in Collateral Trustee Shares, Series A, dated January 31, 1928, sponsored by Investment Trust of New York, Inc.⁴⁶ Printed in the trust agreement were two lists, a primary list consisting of a list of stocks of 75 corporations and a reserve list consisting of stocks of 25 corporations. No stock was to be designated for the primary list which would cause more than 6% of the total investment at the time in the unit to be represented by the shares of any one company. The depositor could substitute another stock, whether common or preferred, for any stock included in the reserve list by filing with the trustee a written notice stating the name of the stock or stocks to be dropped from the reserve list and the name of the stock or stocks to be substituted therefor, but not more than three substitutions could be made at any one time. The notice of substitution to the trustee required a statement that such substitution had been approved by the unanimous action of the executive committee of the board of directors and two-thirds of the members of the board of directors of the depositor and that a notice of the proposed substitutions had been mailed to the registered holders of all outstanding registered certificates and that publication of such proposed change had been made as required by the trust agreement and that no objection had been received from holders of more than 25% of the outstanding Collateral Trustee Shares.

Modifications of this plan for substitutions may be found. The depositor of Trusteed American Bank Shares, Series B, dated April 1, 1933, could at any time, subject to the approval of investment

⁴⁴ Public Examination, Calvin Bullock Trusts, at 3945.

⁴⁵ Of the 56 trusts for which replies to the Commission's questionnaires were received and for which sales of \$500,000 or more of trust shares were made, only 7 trusts provided for the addition of new securities to the portfolio.

⁴⁶ Trust agreement for Collateral Trustee Shares, Series A, Art. VIII, as amended August 20, 1931. Registration Statement of Investment Trust of New York, Inc. File No. 2-38.

counsel, remove any stock from the primary list or transfer any stock from the reserve list to the primary list. No stock of any company in the reserve list was to become part of the trust fund or be placed on the primary list unless at the time in question the depositor certified to the trustee with respect to such company that:⁴⁷

(1) It is a National or State Bank or Bankholding Company holding only National or State bank stocks.

(2) Its Capital, Surplus, and Undivided Profits are not less than \$10,000,000.⁴⁸

(3) Its resources are not less than \$100,000,000.⁴⁹

(4) Its supply of stock available is ample and stock easy to purchase.

(5) It has a minimum of 50,000 shares outstanding.

(6) The price of its stock is in line with its earning rate.

(7) It is located in one of the fifteen leading cities in the United States.

(8) It is located in a community of 500,000 population or more.

(9) It is located in an industrial center.

(10) Industries in section from which it draws its business are diversified.

(11) If located out of the City of New York, it and other similar banks in the Trust Fund are geographically diversified.

(12) If located outside of the City of New York, it is situated in a principal money center.

(13) It has a strong, representative Board of Directors.

(14) It maintains a progressive policy, while growing along conservative lines.

(15) Its control does not rest in the hands of one person.

(16) Its scope of business covers general industries.

(17) Its control rests in the United States.

(18) Its principal business is that of general Commercial Banking and embraces all or any of the following: Making loans, accepting deposits, trust business, savings accounts, foreign business, and Safe Deposit Department.

(19) It is a member of the local Clearing House Association or other local banking organizations or associations.

(20) It is a member of the Federal Reserve Banking System.⁵⁰

The trust agreement represented that the companies listed in the primary list and the reserve list were the 50 largest banking institu-

⁴⁷ Trust agreement of Trusteed American Bank Shares, Series B, Art. IV, Sec. 4.17. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

⁴⁸ By amendment dated December 27, 1935, this amount was reduced to \$7,500,000. Id., Exhibit E.

⁴⁹ By amendment dated December 27, 1935, this amount was reduced to \$75,000,000. Id., Exhibit E.

⁵⁰ The trust agreement also provided (Id., Exhibit E, Art. IV, Sec. 4.17):

The Depositor in determining whether or not any of the above tests are met by any of the Companies shall be entitled to rely upon the last published statement of the Companies, or any other information available to it, and its opinion shall be final.

Neither the Trustee, the Depositor, nor any investment counsel that may be hereafter selected shall be liable for any action taken or omitted by them or either of them in good faith under the provisions of this Article Four, but each shall be liable only for its own willful misconduct.

The Depositor shall not be liable for misjudgment with reference to the restrictions named under subdivisions 1 to 20 in Sec. 4.17 hereof, nor shall the Trustee be held liable for permitting the Depositor to include the stock of any Company in the Primary List whether or not the judgment of the Depositor has been correct with reference to whether or not the stock so included in the Primary List did or did not meet with all or any of the requirements of said subdivisions 1 to 20 in said Section 4.17 hereof. The Trustee shall have no right to question the judgment of the Depositor in including the Stock of any Company in the Primary List and the Trustee shall be entitled to rely on and shall be fully protected in relying on the opinion, judgment, and/or determination of the Depositor as set forth in an Officer's Certificate.

tions and bank holding companies in the United States as of December 31, 1932.⁵¹ New primary lists and reserve lists were, however, supplied to the trustee each year as of December 31 by the depositor and thereafter the trustee was required to make the necessary adjustments in the list.

If the depositor was of the opinion that it would be to the best interests of the certificate holder to hold part of the trust fund in cash, the depositor could so certify in an officer's certificate to the trustee and supplement its opinion with that of a recognized investment counsel certifying to the same opinion.

The same procedure was used to cause the trustee to invest in stocks in the primary list; to cause the trustee to convert all or a portion of the trust into cash and invest it in United States Government securities; and to reconvert the cash or government bonds into the primary list. The trustee was to have no voice in the selection of the investment counsel and the depositor could change counsel at practically any time.⁵²

Collateral Equities Trust Shares, dated March 27, 1934, and sponsored by Collateral Equities, Inc., of Dayton, Ohio, differed in a few minor respects from Trusteed American Bank Shares, Series B. In Collateral Equities Trust Shares the primary and reserve lists were readjusted by the depositor quarterly instead of annually. An investment committee appointed by the depositor, in whose selection the trustee was to have no voice, instead of independent investment counsel, supplemented the depositor's recommendations. The trustee could be directed to hold the proceeds arising from sale of stocks removed from the primary list, and await notice from the depositor and investment committee before reinvesting.⁵³

Both the so-called independent investment counsel of Trusteed American Bank Shares, Series B, and the investment committee of Collateral Equities Trust Shares could be changed at the will of the depositor, except that no change could be made while the counsel or the committee was considering a matter submitted to it unless no report had been made thereon within thirty days after such submission.

Despite all this machinery to secure an apparent independent selection of stocks for the portfolios of these trusts, therefore, the depositors did not relinquish their right of selection of stocks to any great extent.

In summary, many of the provisions respecting eliminations were cumbersome and entirely unworkable and not only proved to have no protective value but rather were among the reasons for the large

⁵¹ Id., Exhibit E, Art. IV, Sec. 4.22. By amendment dated December 27, 1935, this number was changed to the 75 largest banking institutions and bank-holding companies in the United States (id., Exhibit E).

⁵² Id., Exhibit E, Art. IV. A commentary on this trust has been supplied by the depositor itself (id., Item 38) :

The provisions limiting investment to the stocks of 50 largest banks and banks with resources of \$100,000,000, and to banks with Capital, Surplus, and undivided profits not less than \$10,000,000 and which required payment of taxes on profits in capital account from distribution cash were deemed deficiencies in the Trust Agreement in the light of developments in the banking field following upon changes in government regulations and severe business depression.

⁵³ Trust agreement of Collateral Equities Trust Shares, Art. IV. (Reply to the Commission's questionnaire for this trust, Exhibit 18-a.)

losses sustained by these trusts. The only apparent value of these provisions was their effectiveness as sales propaganda. Finally, in 1933, the newer type of semifixed or restricted-management type trust practically returned to the provisions for elimination of some of the very early types of fixed trusts which granted the depositor discretion to determine the underlying securities in the fixed list which were to be included in the unit.⁵⁴ Much of the experimentation, therefore, in the fixed trust field with reference to elimination of underlying securities proved useless. In addition, the multiple loadings paid by these investors upon making exchanges for shares of one fixed trust for shares of other fixed trusts with different provisions for elimination were largely wasted.

⁵⁴ One of the earliest fixed trusts in which the depositor had this discretion was Nation-Wide Securities Company, Trust Certificates, Series A, dated December 22, 1924, the trust agreement of which provided (Trust agreement for Nation-Wide Securities Company, Trust Certificates, Series A, Art. I, Sec. 2, given in the reply to the Commission's questionnaire for this trust, Exhibit 18-a) :

When buying additional Stocks of the Combined Companies for other units of this trust, if on account of price changes, or for any reason deemed sufficient to the Depositor it is impracticable or undesirable to purchase Stocks of one or more of the Combined Companies, such Stocks may be omitted and the Depositor shall have the privilege of substituting in the unit the equivalent value of Stocks of other of the Combined Companies, and in such event the Stock or Stocks of the Combined Companies which are not to be represented in such unit shall be omitted but the sum set aside by the Depositor for purchase of any such omitted Stocks shall be invested in the remaining Stocks of the Combined Companies. All units shall be constituted as above set forth, unless changed by sale or substitution as herein provided, in which case approximately the same ratio as in the first unit shall be preserved between Industrial, Public Utility, and Railroad Stocks. All Stocks shall be selected from the Combined Companies and from no others. All units shall rank alike in value with each and every other unit.

In the trust agreement for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, dated April 23, 1927, the provision for elimination and substitution of underlying securities is as follows (Trust agreement for United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, Art. I, Sec. 2, given in the reply to the Commission's questionnaire for this trust, Exhibit 18-a) :

In buying stocks of the Combined Companies or other companies for additional units or with respect to existing units, the Depositor may only take action, provided such action would result in a change in composition of any of the units, after consultation with some statistical organization or financial service, the business of which is furnishing investment advice, being an organization which is acceptable to the Trustee.

It is hereby provided that there can be no substitution by the Depositor of any other stock for any contained in any unit or units nor can the proportion between stocks in any unit be changed, both except under the following circumstances :

(a) If any of the stocks shall be retired at the option of any of the companies, the proceeds from such redemption shall be reinvested by the Depositor in that stock which, in its opinion, is most nearly comparable to that which has been retired, of the same company. If, for any reason, such is not available or, in the opinion of the Depositor, is not of sufficient intrinsic value to warrant such investment, then the proceeds so obtained shall be reinvested by the Depositor in some one or more of the other stocks contained in each unit with regard to proper geographical diversification, intrinsic value, etc., *but in no other*.

Collateral Trustee Shares, Series A, of the Investment Trust of New York, Inc., as early as January 31, 1928, had even adopted the plan of a primary and reserve list with the right but not the obligation of the depositor in its sole discretion and judgment on the happening of certain events to direct the trustee to sell underlying securities and to replace a security eliminated from the reserve list. (Trust agreement for Collateral Trustee Shares, Series A, of Investment Trust of New York, Inc., as amended by supplemental agreement dated March 23, 1928, and August 20, 1931, p. 6, and Art. VIII.)

United States Shares Corporation as early as February 27, 1928, in United New York Bank Trust Shares, formerly Bank Stock Trust Shares, Series C-3, had also placed elimination and substitutions in the discretion of the depositor. (Moody's Manual of Investment, Banks, 1932, pp. 1587-8. The Commission was unable to secure any direct information concerning this trust.)

Chapter IX

DISTRIBUTION OF FIXED TRUST SHARES

The profits to sponsors of fixed trusts depended principally on the distribution of the fixed trust shares. Except for the instances where a management service fee was collected by the sponsors in addition to the sales load, the sponsor's source of revenue by reason of his connection with fixed trusts was primarily from the loading charges which the investors paid upon the purchase of the fixed trust certificates. Since the profits to the sponsors arose from the sale of the fixed trust shares, a decrease in these sales, of course, resulted in a diminution of these profits.

As was stated by Cedric H. Smith, of Smith, Burris & Company, one of the sponsors of Corporate Trust Shares:¹

Q. So the only way the sponsor makes money is if it can continually sell securities and get that sales load?

A. That is correct.

Q. As soon as there is any resistance built up to those fixed trusts, and you can't sell the stock any more, the depositor can't make any money, isn't that so?

A. That is correct.

Q. And the usual experience has been as soon as a fixed trust lost its appeal, it went out of business?

A. That is correct.

Not only were the major abuses ordinarily found in connection with the retail distribution of securities generally prevalent in the sale of fixed trust shares, but there were also abuses and deficiencies peculiar to the offering of fixed trust certificates. When the sales of a trust created by a sponsor reached the saturation point, the sponsor brought out "new models" of trusts which would have new sales appeal. When these new models, in turn, ceased to attract investors, certificate holders were solicited to exchange their trust shares for securities of other types of investment trusts.² Each of these exchanges usually involved additional charges to the investor and additional revenue to the sponsors.

The distribution to the public of fixed trust certificates differed in many ways from the distribution of securities of other organizations.³ Usually in the case of the closed-end investment companies or industrial or other corporations, a specified amount of securities (stocks, bonds, or debentures) would be issued by the company and offered to the public.

¹ Public Examination, Ross Beason & Co., Inc. Group, at 11230.

² See Ch. XII, Exchanges of Trust Shares, *infra*.

³ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. III, p. 213 (House Doc. No. 70, 76th Cong.).

The distribution of these securities would be undertaken by the underwriting and distributing group which would attempt to effect immediate distribution of this single offering. Firm commitments to purchase these securities were generally required of group members and dealers.

In the distribution of fixed trust certificates, on the other hand, the selling campaign was continuous and no commitments were required either of the principal distributors or dealers. In the conventional distribution of securities, neither the group members nor the house of origin could in ordinary circumstances alter the amount of the issue offered after the underwriting agreements were executed. In selling fixed trust certificates, the sponsor who was principal distributor could regulate, at will, the quantity of shares issued depending on the public response. While groups formed to distribute securities wholesale generally consisted of a number of investment houses in addition to the initiating house, the wholesaler of the fixed trust shares was generally the sponsor of the trust. In the typical security distribution of closed-end management companies⁴ the issues received from 94% to 98% of the offering price to the public while fixed trust shares were distributed at a price which would usually yield less than 91% of the proceeds of sale to the trust. Thus, whereas dealers in the former issues received a commission of 2% to 4%, retailers selling fixed trust certificates received as high as 5% and 6% of the selling price of the certificate to the public.

I. THE PRINCIPAL DISTRIBUTOR

In the distribution of fixed trust certificates, the depositor itself, in some cases, acted as principal distributor, entered into contracts directly with the retail dealers,⁵ and retained the balance of the sales load not paid to the retailers. In other cases, the sponsor acting under contract with the depositor, was the principal distributor; the depositor merely performed those functions required of the depositor by the trust agreement,⁶ and the sponsor, as principal distributor received the balance of the sales load, after payment of the dealers' percentage.⁷

II. DEALERS

Acting under sales agreements with the principal distributor were local dealers who varied in type from members of the New York Stock Exchange or leading investment houses to individuals who, selling insurance or other services, also engaged in the sale of fixed trust shares. Practically all of the approximately 9,500 dealers in

⁴ This spread does not apply to all issues of these companies but did apply to the distribution of the stock of most closed-end management investment companies. (See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. II, p. 205 [House Doc. No. 70, 76th Cong.].)

⁵ Distributors Group, Incorporated (after purchasing the interest of Thomas F. Lee and Company, Incorporated, successor to Lee, Stewart & Co., Incorporated, in May 1930), and Fundamental Group Corporation, depositor for Fundamental Trust Shares, Series A and B followed this method. (See replies to the Commission's questionnaire for North American Trust Shares, 1953, Item 27, and for Fundamental Trust Shares, Series A, Item 27.)

⁶ The Ross Beason & Co., Inc. Group and Calvin Bullock employed this method. (See replies to the Commission's questionnaire for Corporate Trust Shares (Original Series), Item 27, and for Nation-Wide Securities Company, Trust Certificates, Series B, Item 27.)

⁷ Ibid.

the United States were canvassed at one time or another in connection with the sale of shares by various principal distributors. In the case of Distributors Group, Incorporated, the dealer organization grew from 400 on February 17, 1930, to 900 on October 16, 1930, and to 1,200 on November 1, 1930.⁸ Calvin Bullock had about 2,000 dealer outlets throughout the country of which about 700 or 800 were active.⁹ Transcontinent Shares Corporation had approximately 250 dealers.¹⁰

The type of contracts with dealers varied. Lee, Stewart & Co., Incorporated, original distributor of North American Trust Shares, 1953, appointed certain dealers "group members" and gave them, in 1929, in addition to the cash commission paid, ten shares of stock of Distributors Group, Incorporated, the depositor,¹¹ on sales by such group member or by sub-dealers of each full unit of 2,000 North American Trust Shares during each calendar month. This allowance of Distributors Group, Incorporated, stock was in addition to a commission in cash of $3\frac{3}{4}\%$ on sales of 2,000 trust shares or over per calendar month. In addition to the foregoing, one-half of the advertising expense up to $\frac{1}{4}\%$ of total sales per month was allowed to group members, so that the total commission to group members was originally $4\frac{1}{4}\%$ of the retail offering price of North American Trust Shares, 1953.¹²

From time to time, the commission to dealers under the pressure of competition was raised until it amounted to $5\frac{1}{8}\%$.¹³ The following table indicates the successive adjustments in schedule of compensation to dealers by Distributors Group, Incorporated, found in a series of six undated forms of agreement based on monthly sales volume.¹⁴

TABLE 24.—*Compensation to dealers by Distributors Group, Incorporated*

	Plan No.—					
	1	2	3 ^b	4 ^c	5 ^b	6
	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Less than 1,000 shares.....	$2\frac{3}{4}$	3	-----	-----	-----	-----
Less than 2,000 shares.....	-----	$3\frac{1}{2}$	-----	$3\frac{1}{2}$	-----	^a 4
1,000 to 2,000 shares.....	$3\frac{1}{4}$	-----	-----	-----	-----	-----
2,000 shares, or over.....	$3\frac{3}{4}$	4	-----	4	-----	^a $4\frac{1}{2}$
Irrespective of quantity sold.....	-----	-----	$4\frac{1}{2}$	-----	^a $5\frac{1}{8}$	-----

^a Percentage of cost of underlying property, not of retail selling price.

^b Plus 5 shares stock of Distributors Group, Incorporated for each full unit of North American Trust Shares sold.

^c Plus 1 share of stock of Distributors Group, Incorporated for each 800 North American Trust Shares sold.

⁸ Information is not available as to later years. (Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 27 (b).)

⁹ Public Examination, Calvin Bullock Trusts, at 4199.

¹⁰ Reply to the Commission's questionnaire for Deposited Bank Shares, N. Y. Series A, Item 27 (b).

¹¹ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 11, Exhibit A-1 and Exhibit I-1.

¹² Id., Exhibit I-1.

¹³ Id., Exhibit I-4.

¹⁴ Id., Exhibit I.

Under an agreement between the depositor, Distributors Group, Incorporated and the dealers, the latter were authorized to make concessions to subdealers in general, as follows: on less than 1,000 shares, 2½%; 1,000 to 1,999 shares, 3%; and on 2,000 shares or over, 3½%.

Group members were given exclusive sales territory, and then usually agreed, in turn, not to sell the shares of any other trust.¹⁵

S. W. Straus & Co., Incorporated, to market Super-Corporations of America Trust Shares, Series A, B, C, and D, in 1931 organized Super-Distributors, Inc. Dealers were given stock in Super-Distributors, Inc., based on monthly sales, although S. W. Straus & Co., Incorporated, retained control.¹⁶

Calvin Bullock pursued a different policy. Dealers received 5% of the offering price on the shares of the various fixed trust shares distributed. No exclusive sales territory was given to the dealers, who were not required to distribute the certificates of the Bullock trusts exclusively.¹⁷

III. WHOLESALE SALESMEN

To secure dealers who would sell fixed trust shares and to keep in constant touch with them, wholesale salesmen were employed by principal distributors, usually on a commission basis with a drawing account. Calvin Bullock employed approximately 18 such wholesale salesmen for his various trusts, including the management type investment companies, and paid a commission of approximately 1% of sales, out of which the wholesale salesmen had to pay their own expenses, including that of their local offices.¹⁸

The wholesale salesmen, after making a contract with the dealers to sell trust shares, frequently revisited these dealers to give service or advice if any was required. The sale of fixed trust shares differed from the sale of other types of securities because in the latter case the wholesale salesman had little to do, once the commitment was sold. In the fixed trust shares, however, continuing sales and sales effort were involved and net profits for the sponsor did not begin until sufficient sales had been made to take care of original costs.

IV. THE COURSE OF AN ORDER FOR FIXED TRUST SHARES

An order for fixed trust shares, from the time the order was given by the investor to the time he received his certificates, generally took the following course: The order for the trust certificate was given by the investor to a retail dealer in the field. The dealer then telegraphed this order to the wholesale distributor, who usually confirmed the order by telegram and later by letter. On receipt of this order, the distributor notified the depositor, if they were separate organizations, and either the distributor or the depositor, according

¹⁵ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit I-1.

¹⁶ Keane's Investment Trust Monthly, Vol. II, May 1931, p. 264.

¹⁷ Public Examination, Calvin Bullock Trusts, at 4201-3.

¹⁸ Id., at 4199-4201.

to the arrangement between them, gave an order to a broker to purchase the underlying securities needed to create a unit. The broker delivered these underlying securities to the depositor, or, at its request, to the trustee upon payment therefor. The trustee issued to the depositor the proper number of trust certificates which were to be issued against the deposit. The depositor, or in some cases the wholesaler or trustee according to the arrangement, thereupon sent the certificates for trust shares, with draft attached, to the retail dealer in the field. The retail dealer delivered the trust certificates to the investor.¹⁹ This procedure was varied in some details by particular organizations. Purchases by the depositor were often financed through banks and this may have required readjustments.

V. COMPUTATION OF OFFERING PRICE OF FIXED TRUST SHARES

The elements which make up the price of fixed-trust shares are principally the cost of the underlying property which make up the unit deposited and the sales load on the fixed-trust certificate.²⁰ In general, since the underlying securities were listed on the New York Stock Exchange or New York Curb Exchange, the market prices of these securities were used in computing the offering price of the trust shares. The main differences in the practices used among various sponsors related to the time as of which the sale price on the exchange was taken, and to the price to be used when no transaction actually took place on the exchange. For some of the larger trusts, price make-up sheets were prepared approximately every hour during the time the exchanges were open. For other trusts, the closing price of the previous day was used to determine the price of the trust shares for the following day unless a very active market necessitated a revision during the day. For still other trusts, the high price of the previous day was used to determine the market price of the trust shares, and in still other cases the asked price of an underlying security was used.

In making up the price of trust shares, the brokerage commission was added in connection with the underlying securities. With few exceptions, odd-lot brokerage and odd-lot premiums on these underlying securities were charged to the investor. These commissions, which were higher than the round-lot commissions, were charged, even though purchases of the underlying securities by the depositor or sponsor were in round lots. The difference between the odd-lot brokerage premium paid by the investor and the round-lot commissions paid by the depositor or sponsor on the underlying securities was retained by the depositor or sponsor.

The offering price also included the equalization payments, the pro rata amounts of the accumulations which had accrued on the underlying securities since the previous distribution date. These equalization payments were paid to the trust in cash by the investor at the time the shares were bought as part of the purchase price.

¹⁹ Public Examination, Ross Beason & Co., Inc. Group, at 11234-9.

²⁰ A detailed discussion of these pricing methods and their relation to profits to sponsors will be found in Ch. X, Costs to Investors and Profits to Sponsors, *infra*.

In addition, the purchase price included a payment to be made to a reserve fund if one was provided for by the trust agreement, and interest on accumulations and on the reserve fund, if any.

To the total of all these items was added a sales load or loading charge, amounting to a certain percentage of the total of these items, to cover the services in connection with the deposit of the units, the issuance and distribution of the fixed-trust certificates and the profit to the depositor or sponsor. In some trusts the load also covered the trustee's and other servicing fees, while in others the trustee's fees were taken from the income of the fund and, therefore, constituted a charge to the investor in addition to the sales load.

The early practice in computing the base price, that is, the price of the trust shares before the loading was added, was to include accumulations and reserve fund before dividing the unit by the number of trust shares to be issued against the unit to obtain the base price per fixed-trust share. To this base price was added the load, and the result, when adjusted to the next higher one-eighth of a dollar, constituted the offering price of the trust shares.²¹ As a consequence, the investor was paying a load on the cash he was contributing to the fund, in the form of an equalization payment and other items which were to be returned to him on the next and on subsequent distribution dates. This practice of charging a load on these equalization payments and reserve funds, which was disapproved by the New York Stock Exchange on May 7, 1931,²² was discontinued with respect to the trusts on the Exchange's "unobjectionable" list.

VI. FINANCING SALES OF TRUST SHARES

The financing by depositors or sponsors of the purchase of the securities underlying the trust shares did not present many problems. Banks financed the purchase of these underlying stocks, especially where they also acted as trustee for the trust. Delivery of the underlying securities would be made by the brokers to the bank, which advanced the funds for the payment thereof by means of a credit extended to the depositor.²³ The bank then took the securities as

²¹ See price make-up sheet for North American Trust Shares, 1953, given as Table 1, p. 6, *supra*.

²² See Appendix K.

²³ The item of borrowings in the balance sheets of Distributors Group, Incorporated, as of December 31 for each year from 1929 to 1935, presumably for financing sales, is shown by the following table (Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit L-1.):

TABLE 25.—*Borrowings of Distributors Group, Incorporated, 1929-35*

Secured demand loans as of Dec. 31	Amount of loans	Interest paid
1929 °	\$2,253,475.55	
1930	1,539,554.71	\$55,728.17
1931	1,574,482.88	58,630.42
1932		19,435.81
1933		2,248.33
1934	425,000.00	7,684.87
1935	1,190,197.29	21,702.06
Total	6,982,710.43	165,429.66

° 7 months ending Dec. 31, 1930.

trustee and issued trust certificates against the deposit. These certificates could be sent by the bank to the local dealer with draft attached so that the bank had at all times either the underlying securities or the trust certificates issued by the trustee in its possession.

When the draft was drawn on the dealer by the depositor the latter could discount the draft immediately and so be promptly reimbursed for the amount paid for the underlying securities.²⁴

VII. ADVERTISING

The large volume of sales of fixed trusts in the years 1929 to 1931 was due in large part to advertising campaigns that were conducted in the newspapers, magazines, and through the use of the mails and radio broadcasts.²⁵ In addition to the offering circulars sent throughout the country, large advertisements were usually published in the leading newspapers in New York City announcing the creation of the trust.²⁶ Local dealers would publish the initial announcement for the trust in newspapers in their particular city. These advertisements were followed up by small advertisements from time to time in the newspapers. There was also considerable advertising of fixed trusts in the financial magazines and other magazines, particularly of the so-called "quality group."²⁷ In addition, some sponsors prepared series of post cards and letters which were furnished to dealers who sent them to lists of prospective investors.

A. Type of Advertising

Since distribution was largely by dealers who were not affiliated with the New York Stock Exchange, the type of advertising material used was not restricted by the limitations on advertising imposed by the New York Stock Exchange on its members. Offering circulars and advertising material were frequently illustrated in many colors.²⁸

²⁴ Public Examination, Ross Beason & Co., Inc. Group, at 11237-8.

²⁵ Radio advertising was similar to that used for household commodities. In a letter to dealers dated April 7, 1931, announcing a series of radio broadcasts, Cumulative Shares Corporation (depositor of Cumulative Trust Shares) later merged with Distributors Group, Incorporated, stated (Reply to the Commission's questionnaire for this trust, Exhibit F-1): "At the conclusion of his short statement, Mr. Breen will suggest that those listening in send for our booklet, 'Money and You' and say that those who act promptly will receive also a handsome five inch by eleven inch 'Valuable Papers' portfolio that will fit into the owner's safety deposit box."

²⁶ Public Examination, Ross Beason & Co., Inc. Group, at 11280.

²⁷ Such as *The American Mercury*, *Atlantic Monthly*, *Forum*, *Century*, *Harper's*, *North American Review*, and *Scribner's Magazine*.

²⁸ See booklet entitled "Twenty Nine Million Wild Horses" advertising United States Electric Light & Power Shares, Inc., Trust Certificates, Series A. (Reply to the Commission's questionnaire for this trust, Exhibit 19-A-4.)

Typical captions of some advertisements follow:

"WHAT ARE YOU DOING TO IMPROVE YOUR FINANCIAL POSITION DURING THE NEXT TEN YEARS?"

The advertisement contained a picture of one man whispering to another who seems worried. After describing spendthrifts and savers, it stated: "Tune in on the FORTUNE BUILDERS Program—Columbia Broadcasting System, Thursdays and Sundays, at 9:30 P. M., E. S. T., and hear the vivid life stories of America's captains of industry" (North American Trust Shares, 1933, Cumulative Trust Shares. *Colliers Magazine*, June 6, 1931)—Continued on next page.

Practically all this type of advertising was brought to an end as a result of the requirements promulgated by the New York Stock Exchange on May 7, 1931, for fixed trusts with which association of its members or firms would be considered unobjectionable.²⁹ These regulations provided:

Advertisements containing any of the information usually included in the offering circular must include no less than the following in substantially the same form in which similar information is contained in the offering circulars.

- (1) Statement of the amount of loading.
- (2) Statement of determination of offering price.
- (3) Statement of periodic charges.
- (4) The provisions in regard to eliminations and substitutions.

"You, too, can reach into the earnings of America's largest enterprises with as small an amount as \$100" (Cumulative Trust Shares).

"ROMANCE, INCORPORATED" (North American Trust Shares, Cumulative Trust Shares. Reprint from Literary Digest, April 11, 1931).

"LIFE ALLOWS YOU FOUR DEPRESSIONS" (North American Trust Shares).

"A RICH MAN'S INVESTMENT FOR EVERYONE" (Cumulative Trust Shares, Ad No. 4).

"DO YOU POSSESS FORESIGHT?" (Cumulative Trust Shares; Ad No. 9).

"UNPARALLELED RECORD. The stocks of 28 outstanding American Corporations which underlie NORTH AMERICAN TRUST SHARES are guarded in the vaults of a great trust company which acts as Trustee. Unparalleled is the record of such trust companies in the United States" (North American Trust Shares, advance proof for advertisement of September 24, 1931).

"PLAY SAFE" (North American Trust Shares).

"YOU * * * THE FORTUNE BUILDER. The fascination of owning common stocks is the fascination of sharing in the success of great industries * * * of great men * * * of America itself" (North American Trust Shares, Cumulative Trust Shares, reprint from Literary Digest May 9, 1931).

(See Public Examination, Distributors Group, Incorporated, at 10496-502, and Commission's Exhibit No. 1006 for above advertisements.)

"A MESSAGE. Let Reason, not Rumor, Guide Your Investments" (Transcontinent Shares Corporation, circular dated February 18, 1936).

"A MESSAGE. Let's be Sensible, not Speculative" (Transcontinent Shares Corporation, circular dated February 26, 1936).

"CAN YOU PICK THE WINNER?" (Transcontinent Shares Corporation, circular dated January 14, 1936).

(See Public Examination, Transcontinent Shares Corporation, at 13841-2, and Commission's Exhibit No. 1380.)

"MANY FORTUNES WERE FOUNDED IN PERIODS OF DEPRESSION" (Corporate Trust Shares, Ad No. 47-A given in the reply to the Commission's questionnaire for Corporate Trust Shares, Original Series, Exhibit H).

"THE BEST OPPORTUNITY IN MANY YEARS" (Corporate Trust Shares, Ad No. 41-D, id., Exhibit J).

"I'VE HEARD A MAXIM IN WALL STREET THAT SAYS 'Only fools hope to buy at the bottom and sell at the top'" (Corporate Trust Shares, Mat F-2, id., Exhibit K).

"TWENTY-SEVEN MILLION WILD HORSES and more would be required to furnish the electric horsepower produced or sold by the companies the securities of which are deposited with the Central Hanover Bank and Trust Company of New York as security for United States Electric Light and Power Shares, Inc., Trust Certificates, Series B" (Ad No. 11 of this trust given in the reply to the Commission's questionnaire for United States Electric Light & Power Shares, Inc., Trust Certificates, Series B, Exhibit 19-B-9).

"TWENTY-NINE MILLION WILD HORSES" (Id., Series A, Exhibit 19, A-4).

"A TALE OF 200 CITIES" (Ad No. 17 of above trust, id., Exhibit 19-B-12).

"THREE BILLION SLAVES COULD BARELY DO THE WORK OF ELECTRIC POWER IN THE UNITED STATES" (United States Electric Light & Power Shares, Inc. Trust Certificates, Series B. Booklet dated March 28, 1933, id., Exhibit 19-A-3).

"USELPS WILL PAY YOUR LIGHTING BILLS" (United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, given in the reply to the Commission's questionnaire for this trust, Exhibit 19-A-3).

²⁹ See Appendix K.

(5) Method of making distributions.

(6) Voting rights.

No statement which is considered objectionable in the circular may be included in the advertisement.

Another deterrent to the type of advertising described above was the provisions in the Securities Act of 1933 relating to prospectuses to be used in connection with the public offerings of securities. In this connection, John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, testified:³⁰

Q. So out of \$16,000,000, the gross profit, it appears that [\$1,135,191] apparently was spent in advertising?

A. That is what your exhibit shows.

Q. That is what your exhibit shows, which is pretty close to [7] percent of your total income. Is it running that high today?

A. No.

Q. Wasn't?

A. And has not since 1933.

Q. Why is that?

A. The Securities and Exchange Act, obviously.

Q. The Securities Act?

A. It has cut down the character of advertising one can use. * * *

B. Hypothetical Performance Records

One of the forms of advertising which tended to be misleading and which was later prohibited by the requirements of the New York Stock Exchange, was a hypothetical performance record of trust shares traced back for a period of years, usually 17 to 20 years before the trust was created. This record contained the list of cash dividends, stock dividends, rights, and split-ups that accrued to the stock of each underlying company with the totals which the trust would have earned had the trust been set up in this early period. However, some of the underlying securities in these tables would have been eliminated by the very tests set up for elimination if the trust had been in operation.^{30a}

In Circular B of North American Trust Shares, 1953,³¹ the growth of fortunes is suggested in the following language:

Diversifying appreciation

According to statistical records, carefully verified and copied in detail, as shown on the reverse of this sheet, a unit of North American Trust Shares set up in January 1911 would have had a current value of \$20,750.

An investor purchasing such a unit at that time and, at each semiannual dividend paying date, reinvesting all returns that would have accrued to him, in excess of his coupon rate of 30¢ per share semiannually (\$1,200 per year), at the bid price for the Shares (95% of the asking price as granted by his option) would find himself in the following position:

His original investment would have grown, in the 18-year period from January 1911 to January 1929, from \$20,750 to \$122,450.25.

³⁰ Public Examination, Distributors Group, Incorporated, at 10495.

^{30a} See offering circular, August 8, 1930, for North American Trust Shares, 1953. (Reply to Commission's questionnaire for this trust, Exhibit F-6.)

³¹ Public Examination, Distributors' Group, Incorporated, Commission's Exhibit No. 1007.

These figures are reached by taking the actual returns from cash dividends and from the sale of stock dividends, rights and split-ups, above 60¢ per share annually, and investing this excess in additional North American Trust Shares at the bid price, the option granted to all holders of North American Trust Shares.

However, the fact is that the actual experience of this trust subsequent to the time of these advertisements was such that the depositor itself publicly announced that the set-up, because of its elimination provisions, was unsound.³² Based on such tables, also, various plans of investment were described.³³

On May 7, 1931, in connection with its regulations for trusts on its "unobjectionable list," the New York Stock Exchange made the following ruling on these hypothetical tables:³⁴

No statement or computation may be included tending to reflect results, either as to market valuation or as to distributions, which would have been obtained if an investment had been made in the securities comprising the portfolio at any period prior to its creation. Any statement or computation of this character for periods after the creation of the trust in question must go back

³² For the history of North American Trust Shares, 1953 from 1930 to 1935, see Ch. VIII, Eliminations and Substitutions, p. 131, supra.

³³ In the offering circular of Corporate Trust Shares dated August 1, 1929, the plans were described as follows (Reply to the Commission's questionnaire for this trust, Exhibit G-1):

Increase in value of holdings through reinvestment of all or part of semiannual distributions

The average price of Corporate Trust Shares for 1913, if set up in that year, as indicated by annual average prices of the underlying stocks, would have been \$11.50 per Share. If an investor had purchased a unit of 2,000 Corporate Trust Shares on January 1, 1913, for \$23,000, and had reinvested in the Shares each six months at indicated annual average prices (1) all annual distribution, or (2) all annual distributions in excess of 50¢, 60¢, and 70¢ per Share respectively, such reinvestments would have shown the following results on June 6, 1929:

	If all distributions were reinvested	If 50 cents per share annually were used as income and remainder of distributions reinvested in C. T. S.	If 60 cents per share annually were used as income and remainder of distributions reinvested in C. T. S.	If 70 cents per share annually were used as income and remainder of distributions reinvested in C. T. S.
Total used as income.....	None	\$16,000	\$19,200	\$22,400
Total shares owned on June 6, 1929.....	20,963	14,851	13,634	12,416
Value per share on June 6, 1929.....	\$11¼	\$11¼	\$11¼	\$11¼
Value of shares owned June 6, 1929.....	\$235,833	\$167,073	\$153,382	\$139,680
Original investment.....	\$23,000	\$23,000	\$23,000	\$23,000
Gain in value (dollars).....	\$212,833	\$144,073	\$130,382	\$116,680
Gain in value (%).....	925%	626%	566%	507%
Number of times June 6, 1929 value exceeded cost.....	10.25	7.26	6.66	6.07

If the 16-year period were extended to 20 years with an assumed annual average price of \$10.30 and assumed average annual distribution of \$1.50½ per Corporate Trust Share for the 4-year period 1909-12, inclusive, the result of such reinvestment for the 20-year period would have been:

Value of holdings on June 6, 1929

(1) By reinvesting all distributions.....	\$345,874.44
(2) By utilizing 50 cents per share as income, and reinvesting remainder.....	213,380.00
(3) By utilizing 60 cents per share as income, and reinvesting remainder.....	189,934.59
(4) By utilizing 70 cents per share as income, and reinvesting remainder.....	167,699.82

³⁴ Appendix K.

to the beginning of the trust, and must show the result by years since such creation.

C. Advertisements of Earnings on Fixed Trust Shares

Another type of advertising which was used extensively related to the distributions made by the trusts to the holders of trust shares. When, for example, an investor purchased a trust share between distribution dates, the purchase price included the equalization payment which was returned to the shareholder on the following distribution date as part of the distributions. A representation that the earnings on the trust shares were equal to the distribution was, therefore, misleading.

This type of advertising of earnings was more aggravated when used in connection with a trust created shortly before one of its designated distribution dates. The trust agreement was often antedated as of a date prior to the existence of the trust. The distribution to a shareholder in this case would necessarily include part of the capital paid by the investor himself to the depositor as part of the purchase price of the trust share. The sponsor then represented that the amount distributed to the shareholder had been earned by the trust prior to the distribution date. In fact, however, the trust had not been in existence prior to the sale of the trust shares, but only had the fictitious existence which could be attributed to the trust by virtue of the antedating of the trust agreement. For example, Corporate Trust Shares was publicly offered on June 6, 1929, at \$11½. The trust agreement was antedated to January 1, 1929. The equalization fund created out of the equalization payments made by the investors upon the purchase of the trust shares appeared to consist of earnings of the trust since the date of the trust agreement. The first distribution of \$1.165 per share, or apparently 10% of the offering price, was made on June 30, 1929, for the six-month period. In fact, however, the "earnings" per share, which were actually received by the trustee, other than the funds which the investor himself advanced (on the purchase of the shares) amounted to approximately one cent, from June 6, 1929, the offering date, to June 30th, 1929, the date of the first distribution. When questioned on this distribution, Lawrence H. Schmidt, secretary of American Depositor Corporation, depositor of Corporate Trust shares, testified:³⁵

Q. Mr. Schmidt, your trust indenture, for Corporate Trust Shares I am talking about now, was dated January 1 or 2, 1929. Is that correct, sir?

A. That is right.

Q. Now, the actual offering date of Corporate Trust Shares of the original series was June 6, 1929. Is that correct?

A. That is correct.

Q. Do you have figures, or can you get them right there to show whether your first distribution was on July 1 or June 30?

A. June 30. The amount of the distribution was one dollar sixteen and one-half cents.

* * * * *

³⁵ Public Examination, Ross Beason & Co., Inc. Group at 11084-5.

Q. Now, of that one dollar and sixteen and a half cents, how much of that represented the earnings of the underlying companies for the period from June 6 to June 30?

A. A very small amount.

* * * * *

Q. Less than one cent?

A. Yes.

Q. So that you would say \$1.15 per share of that distribution on June 30 represented what the investor had paid in on June 6th?

A. That is correct.

Mr. Schmidt stated that the only "investors" during the period between June 6, 1929, and June 30, 1929, were the sponsors themselves.³⁶

Nevertheless, the sales literature used in connection with the distribution of these fixed trust shares contained the representation that investors received on their shares an amount represented by the return for the first six months of 1929. The offering circular of Corporate Trust Shares dated August 1, 1929, stated:³⁷ "For the six *months* period ended June 30, 1929, the return was \$1.16½ per CORPORATE TRUST SHARE."

A later circular, dated November 15, 1930, stated that the distributions for the whole year of 1929 were as follows:³⁸ "Year, 1929; average price, \$11½; cash distributions, \$1.96⅔; percent return on price, 17.1%. The foregoing table of average prices and cash distributions per CORPORATE TRUST SHARE are based on actual figures for 1929 * * *."³⁹

D. Advertising Expenditures

The following table (Table 26) shows the sums expended by some of the leading sponsors for advertising, circularizing, and entertainment from 1929 to the end of 1935. (See table on following page.)

VIII. ORGANIZATION OF NEW MODELS OF FIXED TRUSTS

With the rapid development of fixed trusts in 1929, sponsor organizations were built up to a point which required a steady flow of sales of trust shares to enable them to continue in business. Calvin Bullock during the 8-year period, 1924 to 1932, brought out 12 trusts, 4 fixed trusts, and 8 management companies. Distributors Group, Incorporated, from 1929 to 1933, sponsored 8 trusts, 5 fixed trusts, and 3 management companies. Super-Corporations of America Depositors, Inc., from 1930 to 1932 brought out 6 fixed trusts. Trans-

³⁶ Id., at 11085.

³⁷ Reply to the Commission's questionnaire for Corporate Trust Shares, Exhibit G-1, p. 1. Italics supplied by sponsors of the trust.

³⁸ Offering circular, Corporate Trust Shares, No. AD-JL2, Nov. 15, 1930. (Id., Exhibit G-3, p. 2.)

³⁹ Id., at 16. In addition the following material was contained in an advertisement in 1930 for Corporate Trust Shares: "Moody's Composite Rating 'A': 14.70% per share per year on average price for the 17 years ended December 31, 1929 (historical record for 16 years), 17.10% actually paid per share on the average price for the calendar year 1929" (Keane's Investment Trust Monthly, Vol. 1, p. 278, March 1930).

continent Shares Corporation, formerly Bank and Insurance Shares, Inc., from 1928 to 1935 sponsored 5 fixed trusts and 2 installment investment plans. The Ross Beason & Co., Inc. Group from 1927 to 1934 brought out 12 trusts of various kinds.

TABLE 26.—*Advertising, circularization, and entertainment expenses of 6 depositor groups of 32 fixed trusts, 1927-35*

Name of depositor group	1929	1930	1931	1932
American Trustee Share Corporation (4 trusts).....		^a \$107,401.55	\$105,959.53	\$16,743.48
Calvin Bullock (3 trusts) (details by years not available).....				
American Depositor Corporation (9 trusts).....	^c \$27,479.84	166,075.82	167,739.61	42,074.51
Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.) (4 trusts).....	15,213.79	23,149.30	29,183.00	11,989.78
Distributors Group, Inc. (6 trusts).....		^d 386,315.59	437,483.18	151,653.60
Super-Corporations of America Depositors, Inc. (6 trusts).....		^f 52,930.60	55,565.57	47,831.79
Total.....				

Name of depositor group	1933	1934	1935	Total
American Trustee Share Corporation (4 trusts).....	\$23,812.45	\$9,690.67	^b \$851.53	\$264,459.21
Calvin Bullock (3 trusts) (details by years not available).....				523,364.58
American Depositor Corporation (9 trusts).....	3,253.25	188.54		406,811.57
Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.) (4 trusts).....	17,766.63	13,601.69	16,450.38	127,354.57
Distributors Group, Inc., (6 trusts).....	58,982.30	^e 56,531.16	^e 44,225.77	1,135,191.60
Super-Corporations of America Depositors, Inc (6 trusts).....	8,603.10			164,931.06
Total.....				2,622,112.59

^a Aug. 8 to Dec. 31.

^b 10 months ending Oct. 31.

^c June 6 to Dec. 31.

^d 7 months ending Dec. 31.

^e Including expenses for Group Securities, Inc.

^f Apr. 8 to Dec. 31.

With reference to the trusts of the Ross Beason & Co., Inc. Group, Lawrence H. Schmidt, secretary of American Depositor Corporation, testified: ⁴⁰

Q. Now, on the question of selling your various shares. The record has in our exhibits offered this morning a table of successive years shown, which shows that you brought out new models every year, one or more from 1927 to 1934, inclusive. Is that right?

A. That is right.

Q. And I think some of you gentlemen made the statement that that was in response to the best demands of a selling campaign. In other words, the dealers and the public responded more readily to the new vehicle in the successive-year sales than it would the rather rigid nature of the old vehicle.

A. That is right. They did respond more successfully because certain issues were brought out with improvement in them.

⁴⁰ Public Examination, Ross Beacon & Co., Inc. Group, at 11056-7.

Q. So you improved your model each year and you brought out rather than to improve your original model or increase your sales in that? Is that correct?

A. That is correct.

When questioned on the creation of new fixed trusts, Hugh Bullock testified: ⁴¹

Q. Now, you also observe that you have three types of utility trust. One is the present semifixed; next is a management type, and the third is a semifixed again. So that you really set up three trusts dealing with the same subject matter in an interval of four years?

A. Certain matters change very fast even in one year, but you are quite right in pointing out the differences in these trusts.

Q. Isn't it a fact, too, that each one of these trusts had reached the saturation point and led you to start a new trust or amend the old and resell it again?

A. I want to make my answer to that question very clear. The original shareholders in Nation-Wide A today have a profit. Nation-Wide A has been a pioneer in the American trust field, and provides a very good example of the soundness of the theory of diversification. As the years went on I assure you that had we been able to amend Nation-Wide A to meet our ideas that developed over the years, as anyone's do, we should not have formed other trusts. I think you see clearly it was not very feasible to amend Nation-Wide A in certain respects, and in fact, completely impossible in others.

* * * * *

Q. And then in 1932 you have the Bullock Fund and you have these exchanges that went in it, whereby the holders of International Superpower landed up in Bullock Fund?

A. Correct.

Q. But after they paid another load to do so?

A. At their option.

Q. Then in 1932 you formed five trusts?

A. Five out of our ten trusts today were formed in 1932.

Q. Apparently for the period from the end of 1932 to the middle of or towards the end of 1933 you concentrated on Dividend Shares.

A. We have never been able to do very successfully more than one thing at a time.

Q. And then that had a heavier liquidation, apparently, redemption by shareholders at the end of 1933?

A. That is correct.

Q. Down to the beginning of 1934. And you picked up on Nation-Wide securities, and I imagine at this time you made the offer of exchange—that is, in the first quarter of 1934 you made the offer of exchange for the USELP A, Nation-Wide A, USELP B and Nation-Wide B?

A. That is correct.

Q. And at that time the holders of those shares were paid a load to get into those shares, originally paid a load to get into Nation-Wide voting?

A. At their option.

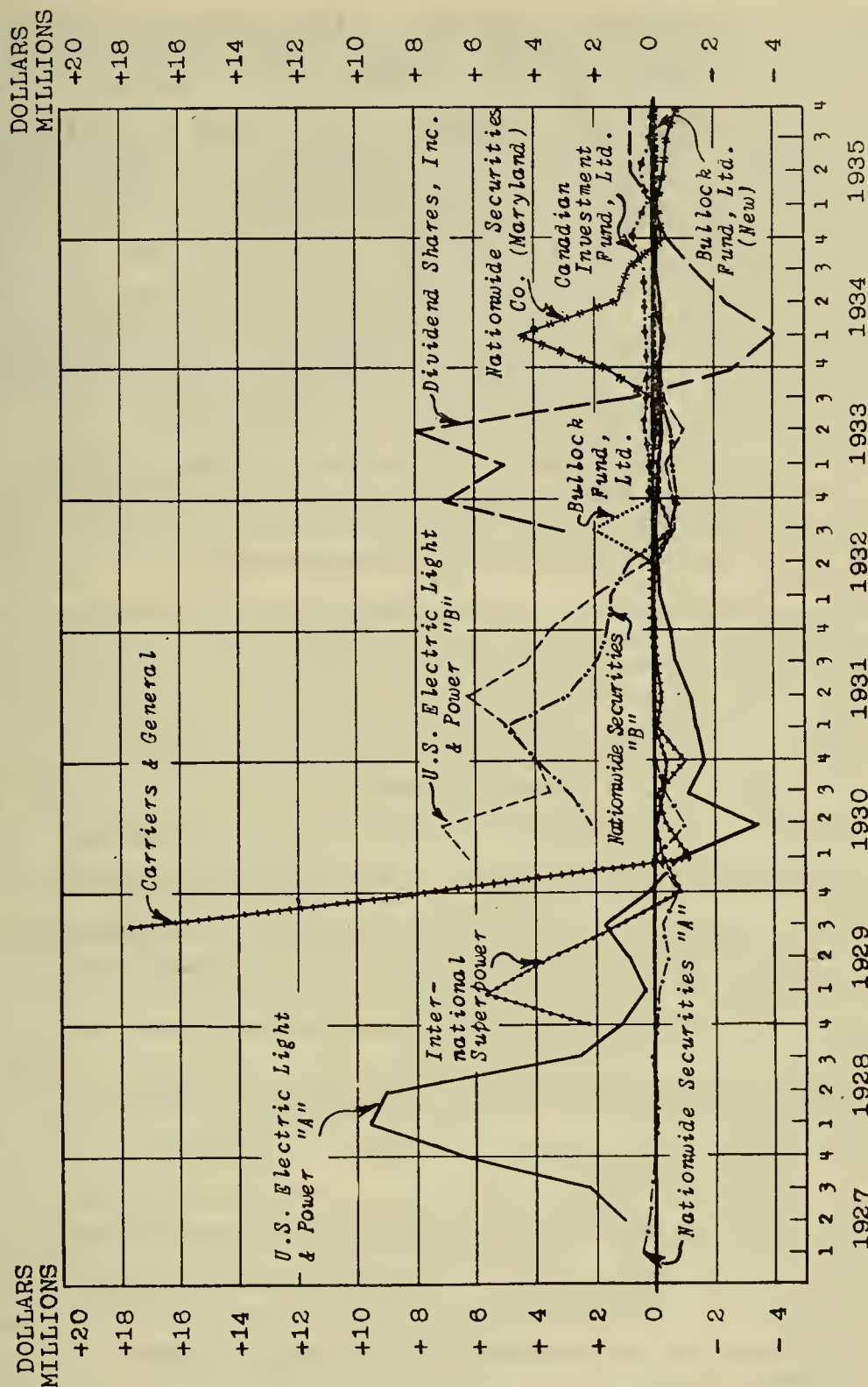
Q. But they were solicited by Calvin Bullock to do it?

A. They were, and they accepted or not, as they saw fit.

Chart VII shows the order in which the trusts of Calvin Bullock were brought out and the relative amounts sold.

⁴¹ Public Examination, Calvin Bullock Trusts, at 4210-3.

CHART VII
NET SALES OF INVESTMENT COMPANIES IN BULLOCK GROUP



Excludes Electric Light & Power Shares, Inc. (Md.)
Organized June 1932, Max. Assets less than \$500,000

IX. SALES TO INSTALLMENT INVESTMENT PLANS

As has been indicated, after the end of 1932, the distribution of fixed trust shares directly to the public decreased substantially. However, some distribution of fixed trust shares was effected through the sale of fixed trust shares to companies sponsoring installment investment plans. Under these plans, which originally appeared in 1930, investors, in essence, purchased investment trust or investment company shares, which were the underlying securities of these plans, upon a

periodic or installment payment basis. The purchaser of the installment plan certificates undertook to pay a stated monthly sum to the sponsor of the plan, who after deducting the sales load to cover operating charges and profit, deposited the balance of the payments with a trustee. Thereupon, either the sponsor or the trustee, depending upon the terms of the instrument creating the plan, purchased securities which underlay the investment plan certificates. In the earlier plans and in many of the later plans fixed trust shares constituted the sole underlying securities.⁴²

Sponsors of fixed trusts early recognized the possibilities for sales outlets that these plans afforded. Transcontinent Share Corporation, sponsor of fixed trusts, created two installment investment plans, admittedly for the purpose of furnishing an additional outlet for their fixed trust shares, by reaching a new type of investor.⁴³

During the 1930-1938 period, 40 installment investment plans used fixed trust shares as their underlying securities. Independence Trust Shares and Trusteed Industry Shares were each used as the underlying security for six installment investment plans.⁴⁴

⁴² See Supplemental Report on Companies Sponsoring Installment Investment Plans. For a discussion of the types of investment trusts or investment companies which constituted the underlying trusts or companies of these installment investment plans, see the Report on Investment Trusts and Investment Companies, Pt. One, Ch. II, Sec. III, p. 31 (House Doc. No. 707, 75th Cong.).

⁴³ Public Examination, Transcontinent Shares Corporation, at 13895-6.

⁴⁴ The following list indicates the name of the installment investment plans and the name of the fixed trust used as underlying security:

<i>Name of Investment Plan*</i>	<i>Named of Fixed Trust</i>
Accumulating Investment Plan Subscription Cfts.	Collateral Trustee Shares, Series A.
Assured Income Builders, Inc., Investment Plan.	Trustee Standard Investment Shares, Series D.
Assured Independence Plan Trusteed Certificates.	Trust Shares of America.
Benjamin Franklin Foundation Trust Certificates.	Trusteed Industry Shares.
Capital Savings Plan Contract Certificates.	Independence Trust Shares.
Financial Independence Founders Trustee Certificates, D Series.	Diversified Trustee Shares, Series D.
Financial Independence Founders Share Certificates, Deposit Series, T Series and Q Series.	Corporate Trust Shares.
Foundation Plan Inc., Endowment Certificates.	Foundation Trust Shares, Series A.
Fundamenican Trustee Certificates.	Fundamental Trust Shares, Series A.
Future Requirements Plan Inv. Certificates, FA and FB.	Independence Trust Shares.
Future Requirements Plan Inv. Certificates, FC and FD.	} Independence Trust Shares. } Trusteed Industry Shares.
Income Foundation Investment Contracts, Plans A, B, and C.	Independence Trust Shares.
Independence Fund Participation Agreements.	North American Trust Shares, 1953.
Independence Fund Trust Certificates.	Cumulative Trust Shares.
Individual Assured Estates, Inc., Endowment Trust Certificates.	Foundation Trust Shares, Series A.
Insurance Stock Plan Contract Certificates.	Deposited Insurance Shares, Series A.
Insured Investors, Series A Certificates.	Trustee Standard Investment Shares, Series D.

*As of December 31, 1937.

X. REGISTRATION OF FIXED TRUST SHARES UNDER THE SECURITIES ACT OF 1933⁴⁵

The Securities Act of 1933 has been in effect since May 27, 1933. Generally speaking, the Securities Act requires the registration with the Commission of all securities offered for sale, sold, or delivered after sale, through the mails, or by means or instruments of interstate commerce.⁴⁶ Although the Act provides certain exemptions from the necessity for registration in the case of particular classes of securities and particular classes of transactions,⁴⁷ it has, in most cases, been applicable to issues of investment trusts and investment companies.

A registration statement generally covers the amount of securities which the company presently proposes to offer.⁴⁸ Briefly, the fol-

<i>Name of Investment Plan</i>	<i>Named of Fixed Trust</i>
Investors Independence Trust Share Certificates.	Independence Trust Shares.
Lexington Foundation Contract Certificates, L, LN, LP.	Trusted Industry Shares.
Liberty Thrift Foundation Trust Certificates.	Trusted Industry Shares.
National Trustee Fund, Inc., Share Certificates.	Independence Trust Shares.
National Trustee Fund, Inc., Contract Cts.	Independence Trust Shares.
New York Bank Stock Plan Contract Certificate.	Deposited Bank Shares, N. Y., Series A.
Prudential Assured Estates Trust Certificates.	Trust Fund Shares.
Selected Managements Investment Certificates.	Selected Managements Trustee Shares.
Standard Trust Foundation Agreements.	Trustee Standard Investment Shares, Series D.
Thrift Investment Certificates of Agreement.	Eight unrelated fixed trust shares.**
Trust Endowment Agreements.	Trust Endowment Shares, Series A.
Trust Endowment Agreements, Type B.	Trust Endowment Shares, Series A.
Trusted Income Estates Certificates, Original Series.	{ Trusted Industry Shares. Trusted American Bank Shares, Series B.
Trusted Income Estates Certificates, Series C.	Trusted Industry Shares.
United Endowment Foundation, Inc., Endowment Certificates.	Foundation Trust Shares, Series A.

**United States Electric Light & Power Shares, Inc., Trust Certificates, Series B; Selected Cumulative Shares; Nation-Wide Securities Company, Trust Certificates, Series B; Selected Income Shares; Trustee Standard Oilshares, Series B; Corporate Trust Shares, Series AA (Modified); Diversified Trustee Shares, Series D; North American Trust Shares, 1956.

⁴⁵ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. V, at 229 and Ch. III, Appendix C at 755 (House Doc. No. 70, 76th Cong.).

⁴⁶ The administration of the Securities Act of 1933 was first under the jurisdiction of the Federal Trade Commission. Following the enactment on June 6, 1934, of the Securities Exchange Act of 1934, its administration was transferred to the Securities and Exchange Commission created by the 1934 Act.

⁴⁷ The sections of the Act containing such exemptions are 3 (a) and 4. In addition to these exemptions provided by the statute itself, rules and regulations have been adopted pursuant to Section 3 (b) exempting limited amounts, not to exceed \$100,000, of certain classes of securities on specified conditions. The final sentence of Section 6 (a) of the Act provides: "A registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered."

⁴⁸ Registrants, in some instances, also include in their registration statement securities which have already been disposed of, so that these already issued securities may be resold in interstate markets.

lowing discussion presents statistics of the amounts of registered securities estimated actually to have been sold, as well as the amounts for which registration statements are in effect.

Between July 27, 1933, and the end of 1936, registration statements covering \$131,000,000 of fixed investment trust securities became effective.⁴⁹

TABLE 27.—*Registration statements filed under the Securities Act of 1933 according to registration status as at Dec. 31, 1936, and registration forms used^a*

[Amounts registered in thousands of dollars]

	Form A-1		Form A-2		Form C-1		Total	
	Number of statements	Amount	Number of statements	Amount	Number of statements	Amount	Number of statements	Amount
Fully effective ^b	22	27, 658	1	4, 669	27	98, 265	50	130, 592
Effective under notice of deficiency.....								
Suspended (S. O.), C. R. O. or withdrawn) ^c	6	2, 750					6	2, 750
Under examination.....	1	9, 900					1	9, 900
Total filed.....	29	40, 308	1	4, 669	27	98, 265	57	143, 242

^a See Report on Investment Trusts and Investment Companies, Pt. Two, Appendix C, table 239 (Houes Doc. No. 70, 76th Cong.).

^b See Table 28 which shows the fully effective registrations of fixed trusts under the Securities Act of 1933 for the period from July 27, 1933, to Dec. 31, 1936. (See Report on Investment Trusts and Investment Companies, Pt. Two, Appendix C, table 234 (House Doc. No. 70, 76th Cong.).

^c The letters S. O. and C. R. O. represent stop-order and consent refusal order, respectively.

TABLE 28.—*Fully effective registrations under the Securities Act of 1933 by Fixed Investment Trusts—Monthly data, July 27, 1933–Dec. 31, 1936*

[Amounts registered in thousands of dollars]

Month and year	Fixed and semifixed investment trusts		Month and year	Fixed and semifixed investment trusts	
	Number of statements	Amount		Number of statements	Amount
1933			1934—Continued		
July.....	17	12, 708	March.....		
August.....	4	2, 000	April.....	1	10, 000
September.....			May.....	1	3, 000
October.....	1	2, 800	June.....	2	4, 564
November.....	2	1, 250	July.....	1	5, 610
December.....	1	250	August.....	1	1, 025
Total, July–December 1933.....	25	19, 008	September.....	1	3, 331
1934			October.....	2	2, 000
January.....			November.....		
February.....			December.....		
			Total, 1934.....	9	29, 530

⁴⁹ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, at 229 (House Doc. No. 70, 76th Cong.), for a comparison of the amounts of fixed trust shares registered with the Commission and other investment companies.

TABLE 28.—*Fully effective registrations under the Securities Act of 1933 by Fixed Investment Trusts—Monthly data, July 27, 1933–Dec. 31, 1936—Continued*

Month and year	Fixed and semifixed investment trusts		Month and year	Fixed and semifixed investment trusts	
	Number of statements	Amount		Number of statements	Amount
1935			1936		
January.....			January.....	1	6,750
February.....			February.....	1	458
March.....	2	11,450	March.....	1	4,669
April.....	2	2,417	April.....	3	10,850
May.....			May.....	2	9,700
June.....			June.....		
July.....	1	5,000	July.....		
August.....	1	10,000	August.....	1	4,560
September.....			September.....		
October.....	1	16,200	October.....		
November.....			November.....		
December.....			December.....		
Total, 1935.....	7	45,067	Total, 1936.....	9	36,987
			Total fully effective as of Dec. 31, 1936.....	50	130,592

The amount of securities for which registration statements are in effect is not a measure of the amount of securities sold, since the registration statement under the Securities Act of 1933 merely represents the amount of securities which the registrant presently proposes to offer. The volume of original sales cannot be in excess of the amount registered, except insofar as certain securities or transactions may be exempt, but sales may be, and for these investment companies usually are, only a small part of the amount registered. The difference between the amount registered and the amount distributed is particularly large in the case of fixed trusts, the shares of which are sold continuously. In connection with these issues, it has been customary for the companies or trusts to register an amount of securities sufficient to cover their prospective sales within a reasonable future period.

A survey of the trust shares actually sold indicated that from July 1933 through the end of 1935 about \$38,000,000 of fixed-trust securities had been sold by companies, sales thus being about 32.4% of the approximately \$117,400,000 amount registered.⁵⁰

⁵⁰ The Commission obtained data on the volume of actual sales of securities registered under the Securities Act of 1933 through the use of a "follow-up" questionnaire to registrants. The sales figures resulting from this follow-up are not complete, excluding sales of some registered issues for various mechanical reasons. Moreover, even if these statistics included all sales of registered issues, they would not be as large as the totals for sales of investment company issues which have been presented in the Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Table 60 (House Doc. No. 70, 76th Cong.). Such variations would result principally from the fact that certain sales may be made without registration, the most important of these exempted transactions being sales of securities which had been "bona fide offered to the public" within sixty days after the enactment of the Securities Act. (Securities Act of 1933, Section 3 (a) (1).)

Chapter X

COSTS TO INVESTORS AND PROFITS TO SPONSORS

The basis for computing the price of fixed trust shares was generally advertised to be the total value of the underlying property in a unit divided by the number of trust shares to be issued against the unit, plus a specified loading charge. Ostensibly no hidden charges upon the purchaser or profits to sponsors existed. Sample price make-up sheets of trust shares were in some cases printed on the offering circular. In the distribution of the trust shares to the public the representation was made or implied that all the charges and costs to investors as well as the profits to the sponsors were disclosed.

Despite the publication of price make-up sheets there were from the very inception of fixed trusts, however, many sources of hidden profits to sponsors. In fact, the main source of revenue or profit to some sponsors came from the hidden charges rather than from the published loading charge.

I. LOADS AND PROFITS TO SPONSORS

The following loads, charges, and other costs were paid by purchasers of fixed trust shares and constituted sources of income to the sponsors.

A. The Published Loading Charge

The first item of income to the sponsor was the published loading charge, which was added to the sale price of the trust shares as a fee for issue, deposit, distribution, and profit.

The following table gives the distribution of initial loading charges of those fixed trusts in existence on December 31, 1931, which had distributed \$500,000 or more of shares to the public.¹

TABLE 29.—*Distribution of initial loading charges, Dec. 31, 1931*

Class limits of published load (percentages of net asset value as of Dec. 31, 1931) :	<i>Number of trusts with loads within indicated class limits</i>
5.0% to 5.99%-----	1
6.0% to 6.99%-----	0
7.0% to 7.99%-----	5
8.0% to 8.99%-----	12
9.0% to 9.99%-----	8
Total-----	26

¹ These are the fixed and semifixed investment trusts replying to the questionnaire for which the data were available as of December 31, 1931. See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. III, at 217 (House Doc. No. 70, 76th Cong.).

It was not the practice of sponsors in the case of some of the earlier trusts to give publicity to the loading charge. The circulars of Nation-Wide Securities Company, Trust Certificates, Series A, and United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, made no mention of any loading charges.²

In the earlier trusts, at least until the regulations of the New York Stock Exchange of May 7, 1931, for trusts on its so-called unobjectionable list, the loading was quoted in terms of the offering price, instead of a percentage of the cost of underlying property. In this way the load was made to appear less, percentagewise, since the offering price—the denominator or base of computation of percentage load—was higher than the cost of the underlying property. So, too, in selling the early trusts, it was customary to quote the loading charge or parts of the loading charge at a flat price. For example, for North American Trust Shares, 1953, the loading charge in the early stages was a flat charge of 18 cents for issue and deposit and 5% of the offering price for distribution and profit. For Corporate Trust Shares, the loading charge initially was 25 cents for issue and deposit and 5% for distribution and profit. These two loading charges were first applied to trust shares selling around \$10. The practice of having the charge for issue and deposit a flat rate rather than a percentage proved to be advantageous to sponsors. In declining markets, a fee based on a percentage of the offering price for deposit and issue would decrease as the prices of the underlying securities would decrease. In time, however, the loading of North American Trust Shares, 1953 became so high in percentage by reason of the decline in value of the underlying shares, that a readjustment did finally become necessary and these flat charges were put on a percentage basis.³

During the interim however, the profit to the sponsors was considerable.⁴

The load of a fixed trust as published by the sponsor, however, did not represent the total load or cost to the investor. The hidden sources of profit to the sponsor which are discussed here added substantially to the cost of the trust shares to the investor.

B. Computation of Load on Accumulations and Reserve Fund

Sponsors often included accumulations in the figure which became the base on which loading was computed. These accumulations were the sums which had accumulated on the underlying stocks by way of cash dividends, and the proceeds of the sale of stock dividends, rights, warrants, split-ups and, in some cases, of eliminations of underlying securities. The fact is that in many cases the equivalent

² Public Examination, Calvin Bullock Trusts, at 3878.

³ In May 1930 the loading charge on North American Trust Shares, 1953 was changed to 9½% of the cost of underlying property. (Supplementary information supplied the Commission by Distributors Group, Incorporated.)

⁴ The requirements of the New York Stock Exchange adopted May 7, 1931, for trusts on its "unobjectionable" list provided on this point (Appendix K): "The aggregate amount of the loading in excess of the value of the underlying property as hereinbefore defined must be stated in terms of percentage of such value at date of issuance of circular. The aggregate amount of any periodical charges must be stated as a percentage of the current annual income as hereinbefore defined. The amount of any termination charge under any conditions must be stated as a percentage of the value of the underlying property at date of issuance of circular."

of most of these funds was actually paid in by the investor as an equalization payment and was in turn disbursed to him in cash at the next distribution date. The money was not invested; it was simply held in cash until this distribution. The investor was, therefore, charged for the advance of his own money.

C. Odd-Lot Minimum Commissions and Differentials

In computing the offering price of the shares of most fixed trusts, odd-lot commissions, taxes, and premiums were charged on the underlying securities and added to the base price on which the offering price of the fixed trust shares was based. Under the common stock exchange practice, when securities are bought in lots of less than 100 shares (in odd lots instead of round lots) two extra charges are added: (1) the minimum basic charge of the brokerage commission is increased, and (2) a premium or differential is added to the price of the security purchased.⁵ Sponsors apparently justified these charges on the grounds that if the investor had purchased directly the quantity of underlying securities represented by the trust shares, the investor would have to pay these charges. However, in cases where the sponsor purchased underlying securities in round lots—and this was typically the practice of the sponsors of the larger trusts during active distribution—the investor paid to sponsors a charge that was not incurred and consequently the sponsor made an extra profit.⁶ It was possible to repeat the process under similar conditions on conversion of trust shares through the trustee or repurchase of trust shares by the depositor or sponsor.

D. Computation of Load on Odd-Lot Minimum Commissions and Differentials

In some cases, sponsors not only included the odd-lot minimum commission and premiums or differentials in the base price, and thus realized a profit, but also computed and charged a load on these items. This charge had the effect of increasing the profits to the sponsors.⁷

E. Adjustment of Offering Price of Trust Shares to a Higher Fraction of a Dollar

Another charge to the investor and a source of profit to the sponsor was the adjustment of the offering prices of the trust shares to a

⁵ A hypothetical case may be cited: for example, if 100 shares of stock selling at \$40 were purchased, the purchase price would be \$4,015, consisting of 100 shares at the selling price of \$40 plus a brokerage commission of \$15 per 100 shares. If, however, 10 shares of the same stock were purchased, the total price would be \$406.25 plus taxes and minimum commissions because of the differential or premium these 10 transactions in the same stock at the same price amounting in all to 100 shares would cost the purchasers \$4,062.50, whereas one transaction on the round-lot basis would cost the purchaser \$4,015. The difference of \$47.50 in the illustration arises from these odd-lot charges. (For a discussion of the subject of odd-lot transactions see this Commission's Report on the Feasibility and Advisability of the Complete Segregation of the Functions of Dealer and Broker, pursuant to Section 11 (c) of The Securities Exchange Act of 1934, June 20, 1936, p. 42 et seq.)

⁶ Public Examination, Distributors Group, Incorporated, at 10459. Public Examination, Ross Beason & Co., Inc. Group, at 11067. Public Examination, Diversified Trustee Shares Series A, B, C, and D, at 7553.

⁷ See such a computation in the price make-up sheet for North American Trust Shares, 1953, in Ch. II, Origin and Nature of Fixed Trusts, Table 1, p. 6, surpa.

higher figure, usually representing one-eighth of a dollar when, as the result of the division of the value of a unit by a number of shares in a unit, the price of the shares was not quotable in eighths of a dollar. In other words, upon computing the offering price of the fixed trust share, the price was raised to the next fraction of a dollar. For example, the computation of the offering price per share of North American Trust Shares, 1958, was \$2.558 at June 30, 1934 but by adjusting the price to the higher tenth the price became \$2.60.⁸ Thus over 1½% of the offering price of \$2.60 represented this adjustment and went to the sponsor as profit.

In the case of some of the earlier trusts, United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, Fixed Trust Shares (Original Series), Diversified Trustee Shares (Original Series), and Diversified Trustee Shares, Series B, the deposit unit was divided into 1,000 parts. However, it became apparent that if the unit was divided into smaller parts, the number of adjustments to the next higher one-eighth of a dollar would be greatly increased. Hence, in the case of the later trusts, United States Light & Power Shares, Inc., Trust Certificates, Series B, North American Trust Shares, 1953, and Corporate Trust Shares, the unit was divided into 2,000 parts and in the case of Basic Industries Shares the unit was divided into 2,500 trust shares. In still later trusts, North American Trust Shares, 1956, Super-Corporation of America Trust Shares, Series AA, and Diversified Trustee Shares, Series C, the unit was divided into 4,000 parts.

The practice of adjusting the price of the trust share to the next higher one-eighth added from 1% to 6% to the offering price.⁹

An extreme example of adding an additional source of profit by adjustment to a higher figure is found in the case of Deposited Insurance Shares, Series A, whose shares were offered in November 1930 by Transcontinent Shares Corporation, formerly Bank and Insurance Shares, Inc., of Philadelphia, and of which \$8,882,230 were sold to the public. The trust agreement by its own terms permitted adjustment to the next higher one-fourth of a dollar, although it was claimed by the sponsors that this full adjustment was never made.¹⁰ When, however, the price of the shares fell to \$2.02 on June 30, 1932—during most of the period of distribution the price of the shares was below \$6.00—the hidden load arising from the price adjustment to the next higher eighth¹¹ was almost equal to the published loading charge. The hidden load due to this adjustment was approximately 5%, according to the work sheets submitted by the sponsors for this date.¹²

⁸ See reply to the Commission's questionnaire for North American Trust Shares, 1958, Item 22.

⁹ Public Examination, Calvin Bullock Trusts, at 3877-8.

¹⁰ Public Examination, Transcontinent Shares Corporation, at 13833.

¹¹ The sponsor represented that the adjustment was to the next higher one-eighth of a dollar. (Trust agreement for Deposited Insurance Shares, Series A, at 31.)

¹² The extra profit to Transcontinent Shares Corporation was in addition to a fee which the depositor received from the surplus fund in the trust shares. This fee was 5 trust shares semiannually withdrawn out of the surplus fund, and was also used as collateral to secure any compensation of the trustee not specified by the trust agreement. (Trust agreement of Deposited Insurance Shares, Series A, Article X, Section 39, amended June 2, 1931, as given in the reply to the Commission's questionnaire for this trust, Exhibit 18.)—Continued on next page.

F. Adjustment of Cost of Underlying Securities

So too, in some cases a similar adjustment was made in the price of underlying securities in the unit when computing the base price of the trust share upon which the loading charge was to be based. For Deposited Bank Shares, Series N. Y., an adjustment of the prices of the underlying securities was made to the nearest dollar¹³—that is, in computing the market price of the shares of each stock included in the unit, the aggregate price of these shares was adjusted to the nearest dollar. As was stated by Emlen S. Hare, former president of the depositor:¹⁴

The WITNESS. You are quite right. Of this December 3rd that you are talking about, the total underlying value of the portfolio is some \$29,000, and that represented fifteen stocks, and that adjustment couldn't have exceeded fifteen dollars, you see, and your Bankers Trust, or take Chemical, \$3,495, and that might have been \$3,494.50, and been moved to the next dollar. On the average, it would have been around seven dollars picked up.

* * * * *

G. Use of Bid and Asked Prices of Underlying Securities

The sponsors of some trusts, particularly those with unlisted securities or inactive listed securities in the units, used the asked prices of such underlying securities as the basis for computing the offering price of the fixed trust shares. Where the units included the stocks of small public utility companies (particularly preferred stocks which were infrequently traded), or stocks of banks and insurance companies, the asked prices of these underlying securities were usually substantially higher than the bid price.

The price make-up sheet of United States Electric Light & Power Shares, Series B, of June 30, 1930, shows that the sponsor used the asked price for 8 out of 44 underlying securities in the unit. In the price make-up sheet of December 31, 1931, the asked price of 14 out of the 44 underlying securities was used.¹⁵ The trust agreement for De-

The regulations of the New York Stock Exchange of May 7, 1931, applicable to those trusts which were on its so-called unobjectionable list, provided price adjustments must be made as follows:

"In the case of certificates originally offered for \$1 or less per certificate, the offering price may be increased to the next higher cent, if such sum results in a price per certificate which includes a fraction of one cent.

"In the case of certificates originally offered for more than \$1 and less than \$5 per certificate, the offering price may be increased to the next higher twentieth of a dollar, if such sum results in a price per certificate which includes a fraction of one-twentieth of a dollar.

"In the case of certificates originally offered for \$5 or more per certificate, the offering price may be increased to the next higher one-eighth of a dollar, if such sum results in a price per certificate which includes a fraction of one-eighth of a dollar."

For Corporate Trust Shares, Accumulative Series, the cost of each unit was adjusted to the next higher \$500. The amount of adjustment on the price make-up sheet dated June 30, 1932, indicates that the value of the unit was raised by \$461.28 for a unit selling at \$12,000, or 3.84% of the offering price. (Reply to the Commission's questionnaire for Corporate Trust Shares, Accumulative Series, Item 22 (a).)

¹³ Reply to the Commission's questionnaire for Deposited Bank Shares, Series N. Y., Item 22.

¹⁴ Public Examination, Transcontinent Shares Corporation, at 13827-8.

¹⁵ Public Examination, Calvin Bullock Trust, at 3887, 3890. See also reply to the Commission's questionnaire for this trust.

posited Insurance Shares, Series A, offered in November 1930, itself provided that in computing the offering price of the trust shares the asked prices of the underlying securities were to be used.¹⁶

The effect of taking the asked price of the underlying securities in the unit was not only to increase the base price of the trust share but also to increase the sales load which was computed on a percentage of the base price.¹⁷ Moreover, when the sponsor purchased the underlying securities at market prices which were usually below asked prices, the difference represented a profit.

In the five trusts sponsored by Transcontinent Shares Corporation, not only were asked prices of the underlying stocks used at all times, but in addition the asked prices of underlying stocks used in the computation of the offering price of trust shares, some of which were bought from or through a subsidiary of the depositor, Hare's, Ltd., were at times higher than asked prices published in leading daily quotation services.¹⁸

When questioned on these discrepancies in prices, Emlen S. Hare, former president of Bank and Insurance Shares, Inc. (Transcontinent Shares Corporation), testified: ¹⁹

Q. Now, taking the Commission's Exhibit 1377, which was the last price make-up sheet that was introduced, which is the quotation as of the last of December 1935, the asked price as shown on your quotation sheet was \$540 a share for the Bank of New York and Trust Company. Was that figured correctly?

A. If it is on that sheet, I imagine it is correct.

Q. Now, the New York Times quotation for that same item—

A. It might have been a couple of dollars less.

Q. It is not a couple of dollars less, but it is \$522.

A. As against \$540.

Q. Yes.

A. \$18 less.

Q. Yes. How do you account for that, sir?

A. The Times quotations on inactive stocks, in my opinion, and you can tell the New York Times this, because we have told them this, are absolutely inaccurate. You can't buy St. Paul and you can't buy Bank of New York and Trust Company from the most efficient trading houses in New York City at the prices which are quoted in the New York Times.

* * * * *

Q. Would you say, then, that the National Daily Quotation Service would be more accurate than the New York Times?

A. It is closer to the prices at which dealers can buy than the Times is as to which the retail buyer can buy.

Q. Now, according to the figures published there, for the same item, which is carried on the work sheet at \$540, in quoting the New York Times at 522, that item is quoted by the National Quotation Service as \$520.

* * * * *

¹⁶ Trust agreements for Deposited Insurance Shares, Series A, Art. VII, Sec. 33. (Reply to the Commission's questionnaire for this trust, Item 18.)

¹⁷ For more detailed discussion see Ch. XI, Realizing on Shares, *infra*.

¹⁸ The following table (Table 30 on next page) shows the difference between asked prices used on December 31, 1935, for the underlying stocks of Deposited Bank Shares, New York, Series A, and the asked prices of the underlying securities in some of the quotation services (Public Examination, Transcontinent Shares Corporation, Commission's Exhibit No. 1378):

¹⁹ Public Examination, Transcontinent Shares Corporation, at 13819-23.

Q. Now, I can't understand that; that may be right, but I can't understand it. We are using an asked price here, and there is an \$18 spread on the New York Times, which is, you say, unreliable, and there is a \$20 spread on the quotation which you say is reliable. Now, it looks to me like this thing was simply thrown in there at an inflated price, and I want to know how you explain it.

A. I didn't say that was particularly reliable. None of those quotation bureau figures have any coverage on any block of stock, of necessity, and they may cover one-share lots; you see what I mean; and they are no obligation to the quoters of those, and they are a "come on" to a certain extent; and I was talking to one of the partners of one of the foremost trading houses in New York City not so long ago, and his back was to his quotation board, and I asked him what he would sell St. Paul for, and he called to one of the traders, and he quoted me five dollars more than the asked price on the board.

¹² Continued.

TABLE 30.—Comparison of prices of underlying securities as listed by depositor and as listed by other sources—Deposited Bank Shares, N. Y., Series A—Closing price Dec. 31, 1935

	Depositor's work sheet (File No. 190-19-1)		New York Times	
	Liquidating value	Ask ^a	Bid	Ask
Bank of Manhattan Co.....	\$31. 50	\$33. 00	\$31. 50	\$33. 50
Bank of New York & Trust Co.....	515. 00	540. 00	515. 00	522. 00
Bankers Trust Co.....	65. 00	68. 27	65. 00	67. 00
Central Hanover Bank & Trust Co.....	118. 00	123. 50	118. 00	121. 00
Chase National Bank.....	42. 00	44. 27	42. 00	44. 00
Chemical Bank & Trust Co.....	54. 00	57. 00	54. 00	56. 00
Corn Exchange Bank Trust Co.....	65. 25	66. 00	65. 25	66. 25
First National Bank of New York.....	2, 070. 00	2, 157. 00	2, 070. 00	2, 110. 00
Guaranty Trust Co.....	307. 00	322. 00	307. 00	312. 00
Irving Trust Co.....	17. 50	18. 76	17. 50	18. 50
Manufacturers Trust Co.....	46. 50	49. 00	46. 50	48. 50
National City Bank of New York.....	38. 00	40. 50	38. 00	40. 00
New York Trust Co.....	120. 00	124. 78	120. 00	123. 00
Public National Bank & Trust Co.....	45. 00	46. 87	45. 00	47. 00

	National Daily Quotation-Service				Spread between ask of work sheet and ask of New York Times ^b	Spread as percentage of New York Times asked price
	Bid (range)		Ask (range)			
Bank of Manhattan Co.....	\$31. 62	\$31. 75	\$31. 88	\$32. 25	¢—(\$0. 50)	—1. 5
Bank of New York & Trust Co...	508. 00	515. 00	518. 00	525. 00	+18. 00	3. 4
Bankers Trust Co.....	65. 50	65. 75	66. 00	66. 25	+1. 27	1. 9
Central Hanover Bank & Trust Co.....	118. 50	119. 25	119. 25	120. 00	+2. 50	2. 1
Chase National Bank.....	42. 25	42. 25	42. 50	42. 50	+. 27	. 6
Chemical Bank & Trust Co.....	54. 38	54. 88	55. 12	55. 75	+1. 00	1. 8
Corn Exchange Bank Trust Co...	65. 50	65. 75	66. 00	66. 25	¢—(. 25)	— . 4
First National Bank of New York.....	2, 085. 00	2, 085. 00	2, 095. 00	2, 095. 00	+47. 00	2. 2
Guaranty Trust Co.....	308. 00	308. 00	310. 00	310. 00	+10. 00	3. 2
Irving Trust Co.....	17. 75	17. 88	18. 00	18. 12	+. 26	1. 4
Manufacturers Trust Co.....	46. 75	46. 75	47. 12	47. 12	+. 50	1. 0
National City Bank of New York..	38. 75	39. 00	39. 00	39. 38	+. 50	1. 2
New York Trust Co.....	119. 75	120. 25	120. 50	121. 25	+1. 78	1. 4
Public National Bank & Trust Co.....	44. 75	44. 75	45. 25	45. 50	¢—(. 13)	— . 3

^a Asked price per unit as given on price make-up sheet divided by number of shares per unit.

^b Bid prices are identical.

^c New York Times asked prices exceeded those cited on work sheet.

Now, you try to buy a stock like Bank of New York and Trust in any quantity, why you buy a few shares and the next quotations are higher, and the next quotations are higher still.

However, although the asked prices of the underlying securities in the unit were used in computing the sales or offering price of the trust shares, the bid prices of these underlying securities (which were in many instances substantially lower than the asked price) were used in computing the conversion or redemption price which the shareholder could receive for his trust certificate.²⁰

H. Payment of Interest on Trust Funds to the Depositor or Sponsor

The interest on accumulations and reserve fund, if any, was in many early trusts considered the property of the depositor. For example, the trust agreement of North American Trust Shares, 1953, provided that interest on all money deposited with the trustee should be paid to the depositor,²¹ and not to the trustee for the benefit of the trust, although this interest was clearly an increment on the trust property. The total amount of interest paid on funds of the trust to the depositor by the trustee of North American Trust Shares, 1953, from the inception of the trust in 1929 until June 16, 1953, was \$360,701.43.²²

John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, testified that the funds obtained from this interest accrual were used by the depositors to pay trustee's fees.²³ However, with few exceptions, the trustee's fees in the case of other trusts were paid from the original loading charge paid by the purchaser of the fixed trust certificates; and it does not appear that any reduction was made in the loading charge of North American Trust Shares, 1953 by reason of the payment of the trustee's fees from interest on cash funds.

Although the regulations of the New York Stock Exchange of May 7, 1931, provided that "All of the property in which the holders of the trust certificates have a beneficial interest, including cash, however received, must be treated by the Trustees in a manner similar to property held under a personal deed of trust," the New York Stock Ex-

²⁰ Reply to the Commission's questionnaire for Deposited Insurance Shares, Series A, Item 23.

²¹ Trust agreement for North American Trust Shares, 1953, Art. III, Sec. 4. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

²² The amounts by years were as follows:

Year:	Amount of interest
1929-----	\$50, 775. 18
1930 (7 months)-----	154, 902. 69
1931-----	142, 386. 66
1932-----	11, 973. 62
1933-----	663. 28
Total-----	360, 701. 43

(Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibits L-2, L-3, L-4, L-5, and L-6.)

²³ Public Examination, Distributors Group, Incorporated, at 10461-2.

change did not require Distributors Group, Incorporated, to surrender the right to interest on the cash funds of the trust.²⁴

I. Deduction of Management Fees From Trust Funds

In some of the later fixed trusts where substitutions and eliminations of the underlying securities were made more flexible and placed within the discretion of the depositor, management fees were charged by the sponsors or depositors in addition to the loading charge.²⁵ In the case of Trusteed Industry Shares the depositor was entitled, in addition to a loading charge of $9\frac{1}{2}\%$, to compensation to be deducted daily out of the corpus of the fund at the rate of $\frac{1}{730}$ of 1% daily of the market value or $\frac{1}{2}$ or 1% annually.²⁶ As a result, for the entire 35-year period of that trust, the depositor will collect an aggregate of $171\frac{1}{2}\%$ of the value of the fund based on bid prices of the underlying securities for those years,²⁷ as compared to the average loading charge of 9% to 10% on many other fixed trust shares. The trust shares of Trusteed Industry Shares thus carry a load of 27%, of which $9\frac{1}{2}\%$ is payable on the purchase of the certificate and the balance over the life of the trust.

The depositor's fees for Universal Trust Shares were even higher than those of Trusteed Industry Shares—the daily fee was twice as great. The trust agreement of Universal Trust Shares, dated July 1, 1930, under which Transcontinental Shares Corporation was the depositor, provided for a daily fee of $\frac{1}{365}$ of 1% of the market value of the underlying stocks to pay the trustee and management²⁸ a fee greatly in excess of the general investment counsel fee.²⁹ This was in addition to an original published load of 9% of the sales price. Hence, the load over the 30-year life of this trust, if the market value of the underlying stocks remained unchanged was not 9% but at least 39%, of which 9% was payable by the investor upon the purchase of the trust shares, and the balance payable over the life of the trust.

J. Failure to Reduce Loading Charges as Termination of Trust Approached

In most fixed trusts, a part of the loading charge on the offering price of the trust shares represented payment of the trustee's fees for the entire life of the trust. Yet in none of these trusts was the loading charge reduced or adjusted downward with the passing of time or the expiration of a substantial period of existence of the trust. So

²⁴ *Id.*, at 10457.

²⁵ See Ch. IV, *The Depositor*, p. 66, *supra*.

²⁶ Trust agreement for Trusteed Industry Shares, Art. XII, Sec. 12.04. (Reply to the Commission's questionnaire for this trust, Exhibit 18A.)

²⁷ This is under the assumption that the market value of the underlying securities remained constant.

²⁸ *Moody's Manual of Investments, Banks*, 1932, p. 2203. This general type trust had no features which were peculiar to the trust. The principal difference between that trust and similar fixed trusts was that its plan of elimination and substitution of underlying securities was given a name, the Brown-Carpenter plan. See Ch. VIII, *Eliminations and Substitutions*, p. 139, *supra*.

²⁹ See Report on Investment Counsel, Investment Management, Investment Supervisory and Investment Advisory Services, p. 16.

if it be assumed that the initial investor paid an 8% load on a 20-year trust, and one-fourth of this load was allocated to trustees' fees and charges, then an investor who bought trust shares after the trust had been in existence for five years should have paid a load of only 7½%, since he was only getting 15 years' trustee service. In the absence of such adjustment, the later investor was paying a higher rate than the initial investor. However, no such adjustments were made, and the difference became another source of profit to the sponsor at the expense of the later investor.³⁰

K. Retention of Loading Charges in the Case of Premature Termination of Trust

The unused portion of the loading charge, which originally covered expenses for the life of trusts, has, in the cases of terminations of trusts prior to the period set out in the trust agreement, been retained by the depositor or sponsor. Part of this loading was for trustee's fees for the life of the trust, usually for 20 or 25 years. The extent to which these unused charges accrued to the sponsor or depositor is indicated by the fact that 74 out of 124 smaller trusts examined were terminated prior to the expiration period provided for in the trust agreement.³¹

So too, where the investor converted his trust shares either into underlying securities or cash, no part of the trustee's fees to cover the full life of the trust included in the loading charge paid by this investor was refunded by the depositor.³²

L. Special Allowances to Sponsors on Purchase of Underlying Securities

In some trusts the depositors or sponsors were able to purchase underlying securities at special discount prices, yet in computing the base price of the trust shares, the market or asked price of these underlying securities was used. For example, the sponsor of Nation-Wide Securities Company, Trust Certificates, Series A, and United States Electric Light & Power Shares, Inc. Trust Certificates, Series A, could purchase the North American Company stock directly from the company and Public Service of Colorado 6% preferred stock from Henry L. Doherty & Company at special allowances.³³

³⁰ Public Examination, Ross Beason & Co., Inc. Group, at 11287-90.

³¹ See Ch. V, The Trustee, p. 93, *supra*.

³² Public Examination, Diversified Trustee Shares, Series A, B, C and D, at 7555.

³³ Nation-Wide Securities Company, Trust Certificates, Series A, had in each of its deposited units 110 shares of the North American Company stock as of June 30, 1927, which represented an investment of \$5,266.25 per unit out of a total cost per unit of \$29,744.14, or about 17% of the investment and 4½ times the average allocation. United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, had in each of its deposited units 90 shares of the North American Company stock at a market value of \$4,320 as of June 30, 1927. The total value of the underlying securities was \$27,193.12, so that the amount invested in the stock of North American Company was almost 16% of the total portfolio while the average value per unit of the individual blocks of stock was only \$394, or 1.4% of the total value. (Public Examination, Calvin Bullock Trusts, at 3879-82.)

M. Dealings in Distributions

Another source of profit to the sponsors of fixed trusts arose from arrangements with the trustee whereby the trustee sold to the depositor or sponsor, at private sales, distributions on the underlying securities which it received in the form of stock dividends, rights, split-ups, and other property.

A case of some interest in this connection because it involved the treatment and disposition of stock dividends, rights, and split-ups was the action of *Gene McCann v. W. Irving Throckmorton et al.*,³⁴ instituted by a holder of trust certificates against the trustee, the sponsor and depositor of Diversified Trustee Shares alleging that rights and the property arising from the deposited property had not been sold in the manner required by the trust agreement. This requirement was that the trustee should sell certain stock dividends and other property received by the trustee, including rights, warrants, and options, at the highest price obtainable on the open market and credit the proceeds thereof to the distribution account, which was to be paid to certificate holders at the next distribution period.

The complaint alleged that the "said Trustee, together with other defendants above named, entered into an agreement of conspiracy shortly after the execution of said Trust Agreement whereby said stock dividends and rights should be sold privately and secretly to said brokers and/or to said Depositor at less than the best price obtainable therefor in the open market, and pursuant to said agreement of conspiracy did sell certain of said stock dividends and rights privately and secretly to said Brokers and/or to said Depositor at less than the best price obtainable therefor in the open market, thereby depriving the holders of said Certificates *pro tanto* of the full amount of income of said Diversified Trustee Shares to which they were lawfully entitled."

The complaint was dismissed against American Trustee Share Corporation and Chatham-Phenix National Bank and Trust Company (later merged with Manufacturers Trust Company); but a judgment was entered on August 5, 1932, against the partners of Throckmorton & Company, the sponsors, in the amount of \$117,964.75, representing the difference between the amount received by the trust from Throckmorton & Company for the distributions, and the amount realized by Throckmorton & Company on the sale of those distributions in the open market.³⁵

When asked whether the audits made of the accounts of American Trustee Share Corporation by the Chatham-Phenix National Bank

³⁴ Supreme Court of the State of New York, New York County, Number 18, 121-1930. (See Public Examination, Diversified Trustee Shares, Series A, B, C, and D, Commission's Exhibits Nos. 689, 690, and 691.)

³⁵ As a result of the suit, the trustee made disbursements as follows:

To Diversified Trustee Shares, Series A, \$412.48; to Series B, \$363.75; to Series C, \$9,742.63.

To Series A for distribution to certificate holders who had surrendered their certificates and had taken out the underlying shares, \$37,365.68; to Series B for same, \$58,860.97.

For expenses and counsel fees, \$28,852.50.

The balance of \$38,663.89 was paid to Throckmorton & Company. (Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7484.)

and Trust Company would have disclosed the irregularity in the sales of rights made by Throckmorton & Company, Frederick Lober, vice president of Manufacturers Trust Company, testified: ³⁶

Q. Well, would the audits, as they were set up at that time, as you had them from time to time, would they have disclosed eventually this irregularity?

A. No; I don't think so, for this reason: The auditors check the sales or the delivery of any security out of our bank, or they did at that time, and they were interested in seeing whether we either got a receipt or cash for those securities, and they wouldn't check every account as to the terms of the indenture, and what our duties were in that respect, and they didn't go into that deeply, but they did check to see whether we got cash or a receipt from the securities that we delivered.

* * * * *

Q. From what you say, then, the way the books were kept then, it would be impossible or practically, or unlikely, that this condition would be disclosed by the fact that an audit had been made.

A. No; because we didn't know what was going on over at Throckmorton & Company.

Q. So the auditors would not only have to include the accounts held in the hands of the trustee, but those accounts would have to be checked against the depositor's account?

A. Yes.

The extent to which these private sales of distributions on underlying securities to sponsors were effected is difficult to ascertain. The trust agreement of Common Stock Trust Shares, Series A-1, dated January 10, 1928, of which United States Shares Corporation was the original depositor,³⁷ and The Chase National Bank of the City of New York was trustee, provided specifically for such private sales: ³⁸

The TRUSTEE shall sell all or any part of the property constituting such distribution to the CORPORATION on written demand by it within one month after receipt thereof by the TRUSTEE, upon receipt of the purchase price which shall be ascertained in the following manner: such price shall be the closing bid price of said stock or other property on the day preceding said demand as shown by, first, the official daily list or other list of prices issued by or under the authority of the New York, Chicago, or Boston Stock Exchange; or if no quotation appears in such official daily list or other list of prices, then second, the official list or other list of prices issued by or under the authority of any other recognized Stock Exchange in the United States or Canada; or if no quotation appears in such list of prices, then, third, the bid price quoted in the "New York Commercial and Financial Chronicle" of the Saturday next preceding the date of said demand; or if no quotation appears in such "Chronicle," then, fourth, the price shall be the closing bid price on the day preceding said demand as stated in a letter to be obtained by the CORPORATION from any member of the New York, Chicago, or Boston Stock Exchange, or of New York Curb Market, or any other recognized Stock Exchange in the United States or Canada and delivered to the TRUSTEE.

³⁶ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7468-9.

³⁷ See Ch. IV, The Depositor, Table 7, *supra*, for changes of depositors.

³⁸ Trust agreement for Common Stock Trust Shares, Series A-1, Art. IV, Sec. 15. (See summary statement filed with the Commission for this trust.)

If the CORPORATION shall not purchase the property constituting such distribution or shall purchase less than all of the same within the time above stated, or if the CORPORATION shall waive its right to purchase the property constituting such distribution, then and in either such event, the TRUSTEE shall proceed as soon as may be practicable to sell the unsold portion of said distribution on the open market at the best obtainable price therefor. Failing such sale on the open market prior to the next dividend payment day, of all or any part of said distribution not sold to the CORPORATION, the unsold portion of said distribution shall be held by the TRUSTEE and shall be accumulated and thereafter sold by the TRUSTEE as soon as may be practicable.

The effect of this provision was to give the depositor an option to purchase the distribution for 30 days. As in any other option, the depositor had 30 days in which to decide whether it desired to purchase the distribution from the trustee; and the trust was bound at any time during this period to sell to the depositor if it exercised its option. In addition, the depositor was able to buy the distributions from the trusts at the bid price of these securities and sell them immediately at their market price. Under this practice a steady dilution of the trust could take place.³⁹

N. Profits From Resale of Trust Shares

Some sponsors purchased trust shares directly from investors who were desirous of redeeming their fixed trust certificates. The sponsors frequently paid a price equal to the offering price of the shares less the amount of loading. The investor accepted this price, which was less than he was entitled to on redemption by the trust itself, in order to secure immediately a definite, firm price for his certificates. The depositor would not tender these shares for redemption but would resell these shares to the public. As a consequence the depositor did not incur the cost of issue and deposit on resales of the shares. The only expense of reselling was the dealer's commission. However, the "charge" for issue and deposit was again included in the total loading on the resale to the public and constituted a source of extra profit to the sponsors.⁴⁰

O. Dropping Bid Prices of Trust Shares Below Liquidating Value of the Shares

Frequently depositors or sponsors purchased shares from holders below the redemption, conversion, or liquidating value and then proceeded to liquidate the shares at a profit.

The following table shows the difference between the net liquidating value per share of Diversified Trustee Shares, Series A, and the bid price for the trust shares which was maintained by the depositor: ⁴¹

³⁹ For a discussion of a similar practice, and its consequences, in connection with the existence of more than one offering price for trust shares see discussion in this chapter, pp. 182-6, *infra*.

⁴⁰ Public Examination, Distributors Group, Incorporated, at 10463.

⁴¹ Reply to the Commission's questionnaire for Diversified Trustee Shares, Series A, Exhibit F.

TABLE 31.—*Net liquidating value and bid prices, Diversified Trustee Shares, Series A*

	June 30, 1930	Dec. 18, 1930	June 30, 1931	Dec. 10, 1931	June 27, 1932	Dec. 31, 1932
Net liquidating value.....	\$22.07	16.86	16.39	9.57	4.80	7.19
Bid.....	21.25	15.625- 16.375	15.50	7.625	4.25	6.75
Difference.....	.82	1.235- .485	.89	1.945	.55	.44

Thus, as of December 10, 1931, in the extreme case, the difference between the depositor's bid prices for the trust shares and their liquidating value was \$1.945 per share, or 20% less than the liquidating value.

In a statement of Distributors Group, Incorporated, relative to North American Trust Shares, 1953, dated November 4, 1931, the depositor stated:⁴²

The bid was determined by deducting $\frac{1}{2}$ point from the offering price as so obtained.

With the discontinuance of the offering price, the above arbitrary method of determining the bid was discontinued. In its place there will be substituted a bid price, intelligently computed, that will be as high as this corporation finds it possible from time to time to maintain. It should be noted, however, that the bid so maintained will not be the theoretical liquidating value of the Trust Shares. All dealers and distributors should see to it that no representation is made directly or indirectly suggesting or tending to suggest that the bid price and the liquidating value are the same.

In the case of Corporate Trust Shares the offering circular represented that a repurchase market was maintained.⁴³ However, Lawrence W. Schmidt, secretary and director of American Depositor Corporation, depositor of Corporate Trust Shares, testified:⁴⁴

Q. Is the liquidating value higher than the [bid] price?

A. The liquidating value is slightly higher than the price we maintain.

Q. You might explain why you shifted your position.

A. The liquidating value is higher for two reasons: In the first place, since shareholders are not—since shares are not being sold now, any shares we purchased from investors cannot be resold but must be liquidated. In other words, whoever repurchases the shares, whoever is making the bid market, has to count on obtaining, theoretically at least, as much for the shares on liquidation as he pays the investor for them. In the second place, the over-the-counter market in the shares maintained by some of the larger Street houses is so active that they are willing to pay much more than we possibly could pay the shareholder, the holder of odd-lots, a much higher figure than we possibly could, because of the volume of turnover; for example, in the case of some of the trusts, we have been

⁴² North American Trust Shares, 1953, Bulletin No. 28. (Reply to the Commission's questionnaire for this trust, Exhibit J-1.)

⁴³ Reply to the Commission's questionnaire for Corporate Trust Shares, Exhibit G-1.

⁴⁴ Public Examination, Ross Beason & Co., Inc. Group, at 11308-9.

holding shares which have not been repurchased for a year or longer, waiting for enough to come in and get a unit and break them down through the trustee.

Q. So that accounts for the fact that very few investors redeem through the trustee?

A. I would say there are very few investors who resell their shares to us. They either redeem through the trustee or, if they prefer to avoid the market risk in the approximately three-day delay, they may sell directly to one of the larger over-the-counter houses.

P. Unclaimed Funds

Another source of some profit to the depositor was the funds which were not claimed by certificate holders. These unclaimed funds did not accrue to the benefit of the trust or remaining certificate holders, but in some instances went to the depositors, as was testified by Hugh Bullock:⁴⁵

Q. * * * Now, the next item is unclaimed funds. There is a provision that unclaimed funds are held by the trustee for six years and then they go back to the depositor, and the depositor would be Calvin Bullock, I suppose, because they own all the stock. That is correct, isn't it?

A. Calvin Bullock owns all the stock of the depositor. The depositor is not Calvin Bullock. It happens the stock of the depositor happens to be owned by Calvin Bullock, and Calvin Bullock's senior officials officer and director the depositor.

Q. Yes. And those funds would go back to Calvin Bullock, wouldn't they, after six years?

A. Those funds would go back to the depositor after six years.

Q. And the depositor is owned by Calvin Bullock?

A. The depositor is owned by Calvin Bullock; yes.

From December 1927 to December 1935 a total of \$11,002,200.00 of distributions were paid on United States Electric Light and Power Shares, Inc., trust certificates, Series A, of which \$48,190.53 or 1/2% were unclaimed.⁴⁶

The trust agreement of North American Trust Shares, 1953, also provided:⁴⁷

In case any coupon shall not have been presented for payment within six years after the date for payment thereof, the Trustee, upon the written order of the Depositor shall pay over to the Depositor the net moneys, if any, payable with respect to such coupon, and thereafter the bearer of such coupon shall look only to the Depositor for payment thereof. Neither the Trustee nor the Depositor shall be required to pay to the bearer of any coupon interest on any moneys so held by the Trustee or paid over by it to the Depositor.

A similar provision states that the depositor should also receive the proceeds of trust certificates not presented for redemption within six years after termination of the trust.⁴⁸

⁴⁵ Public Examination, Calvin Bullock Trusts, at 3901.

⁴⁶ Derived from supplementary information supplied the Commission for United States Electric Light & Power Shares, Inc., Series A.

⁴⁷ Trust agreement of North American Trust Shares, 1953, Art. IV, Sec. 8. (Reply to the Commission's questionnaire for this trust, Exhibit E-1.)

⁴⁸ Footnote on following page.

The practice of retaining unclaimed funds by sponsors was disapproved by the New York Stock Exchange which provided in its regulations of May 7, 1931, for trusts in its "unobjectionable" list:

Upon the termination of the trust, unclaimed funds should be retained by the trustee and proper provision in regard to giving notice to the beneficiaries by mail, if the certificates are registered, and by publication, if they are in bearer form, should be included in the indenture.

Q. Charges Upon Conversions of Trust Shares

Certain opportunities for profit to the depositor or sponsor existed in connection with the conversion of trust shares through the trustee, or "unwinding" the trusts. As has been indicated, the sponsor realized some profit by purchasing the trust shares below the liquidating value and then converting or liquidating these shares through the trustee. In addition, the depositor charged the shareholder who desired to redeem his shares odd-lot brokerage on the underlying securities, whereas the depositor frequently presented for redemption blocks of trust shares representing underlying stocks in 100-share lots, which could be sold upon payment of round lot commissions. Frequently brokerage commissions were saved by the depositor when trust shares of one trust were exchanged for those of another and the underlying stocks obtained upon the redemption of the first trust shares were used by the depositor to create the units in the second trust.⁴⁹

In the case of Corporate Trust Shares, Original Series, the trust agreement provided for a conversion charge of 50 cents per trust share to be paid upon surrender of trust shares to the trustee if the number of shares prescribed was less than the equivalent of a unit.⁵⁰ This charge would have frequently doubled the loading charge. As of December 31, 1930, the loading charge of Corporate Trust Shares on a unit basis was \$1,112.50 and the adjustment to the next higher fraction of a dollar was \$68.60. The cost of conversion was \$1,000, making the overhead for a purchase and sale of a trust share 1/2000 of \$2,181.10 or \$1.09 per share. At a cost price of \$6 1/8 on this day per share, the cost of a purchase and sale of a share without market change would have been 18%.⁵¹

⁴⁹ Id., Art. VI, Sec. 10. John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, testified concerning unclaimed funds as follows (Public Examination, Distributors Group, Incorporated, at 10460):

A. * * * Unclaimed funds, we have never collected a penny of unclaimed funds.

Q. Who gets them?

A. In all of the trusts there is no specific provision, and I always answer that question by saying that the trustee holds the unclaimed funds indefinitely, subject only to the call of the holder of the certificate or the coupon as the case may be, but in the original North American Trust Shares, there was a six-year limitation, that at the time of the stock-exchange regulations, where the point was raised, in my opinion in a most academic way, arrangements were made so that that would be taken care of, that those funds were never turned over to the depositor, and the trustee agreed to hold those funds indefinitely.

Q. How much does that amount to today?

A. I have never had any idea, because we no longer have any interest in them, and it would be a matter of curiosity only.

⁴⁹ See Ch. XII, Exchanges of Trust Shares, *infra*.

⁵⁰ Trust agreement for Corporate Trust Shares, Original Series, Art. VI, Sec. 4. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

⁵¹ Id., Item 22 (a).

When by reason of the decrease in the price of the shares, this conversion charge eventually became exorbitant, especially since the investor had paid his original loading and was also charged all the expenses for conversion of the trust shares, the trust agreement of Corporate Trust Shares was amended on May 28, 1931, to provide that the conversion charge of 50 cents per trust share should be changed to 2% of the cash and market value of the deposited property but should not exceed 50 cents per trust share. For conversion of quarters of a unit, the conversion fee was made $\frac{1}{2}$ of 1% of the cash and the market value of deposited property with a maximum of 50 cents per share.⁵²

The profits on conversion of Corporate Trust shares by the Ross Beason & Co., Inc. Group, even at the lower rate, may be seen by comparing the charge of one-half cent per share made by the Guaranty Trust Company of New York to Distributors Group, Incorporated, for the same service.⁵³

The conversion charge for Trustee Standard Utility Shares offered by Dwelly, Pearce & Company, Inc., on October 1, 1931, at $\$5\frac{7}{8}$ was one-half cent per trust share, but with a minimum charge of \$1.00. The charge for conversion of one-fifth of a unit was \$5.00, for two-fifths of a unit was \$7.50, and for three-fifths of a unit to a full unit was \$10.00.⁵⁴

The trust agreement for Trusteed American Bank Shares, Series B, dated April 1, 1933, and originally sponsored by American Associated Dealers, Inc., provided for a charge for conversion of two cents per trust share up to and including 1,000 trust shares with a minimum charge of \$5.00 per conversion; a fee of one and one-half cents per trust share for each trust share over 1,000 and less than 5,000; and a fee of one cent per share for any number of trust shares over and above 5,000.⁵⁵ These charges were deducted by the trustee, and, except for the trustee's actual expenses, were paid to the depositor. As of February 28, 1936, the conversion charge for 1,000 trust shares, worth \$1,054.52, was \$20, of which the trustee received \$1.32, its actual expenses, and the depositor received \$18.68.⁵⁶

No apparent service was performed by the depositor for this fee.

R. Exchanges of Trust Shares

One of the most prolific sources of profit to sponsors of fixed trusts arose in connection with offers of exchange of new trust shares for those of other series or of other sponsors after the original selling campaign was completed. By these offers, which were often coupled with "suggestions" that the trust would be terminated, the sponsors were often able to conduct several successive selling campaigns, each

⁵² Agreement supplemental to trust agreement for Corporate Trust Shares, Original Series, Secs. 3 and 4. (Id., Exhibit F; see also Item 26.)

⁵³ See Appendix I.

⁵⁴ Poor's Fiscal Volume, 1932, p. 1603.

⁵⁵ Trust agreement for Trusteed American Bank Shares, Series B, Art. VIII, Sec. 8.12. (Reply to the Commission's questionnaire for this trust, Exhibit E.)

⁵⁶ Prospectus for Trusteed American Bank Shares, Series B, dated May 5, 1936, in Registration Statement for Administrative Corporation filed with the Securities and Exchange Commission, File No. 2-1968.

time with a slightly different security. In some cases, small allowances were made for exchanges where both trusts were offered by the same sponsor, but in many cases full loadings were charged on exchanges even though a full loading had been paid shortly before on the basis of the 20 or 25 years' existence of the prior trust.⁵⁷

S. Profits From Brokerage

Sponsors of fixed trusts who were members of the stock exchanges, of course, had an additional source of revenue, the brokerage commission on the purchases and sales of underlying stocks for the trust. Many stock exchange houses, as was pointed out above,⁵⁸ sponsored their own fixed trusts and obtained this brokerage business. However, where the sponsor was not a stock exchange member, the brokerage business was given generally to the distributors as a reward for large distribution. On this point, John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, testified:⁵⁹

A. * * * Next item, Commissions from Stock Exchange Business. The Distributors Group never received any such commissions, and by virtue of the fact that stock exchange securities had to be bought, and there were stock exchange commissions to be earned, we of course favored the stock exchange houses who distributed North American Trust Shares, and who were group members. We gave them the stock exchange business, very roughly in proportion to the sales of trust shares. I can't say, and I can't agree that that item No. 10 can be looked upon as a source of profit to the Depositor Corporation.

Q. It was used as a form of bonus, wasn't it, a premium, or reward for extra selling efforts?

A. It can be looked upon in that way, and we used that stock exchange business, that we had to give out, in such a way, that to the extent possible that it would promote sales.

In the case of Diversified Trustee Shares, Series D, a large distributor was allowed by the terms of the agreement of distribution to designate the broker through whom underlying shares were to be purchased.⁶⁰

T. Trading Profits

The source of a very substantial profit to sponsors of fixed trusts arose from trading in the trust shares and in the securities underlying the trust shares. This trading was of two types, depending upon the method used to create trust shares. In the earlier types of trust, the depositor would deliver a given quantity of underlying securities and cash to the trustee and receive from the trustee a specified number of trust certificates in exchange therefor. Some of the later trusts, particularly those which were not of the unit type, followed the practice of remitting only cash to the trustee, which would, in turn, purchase the necessary underlying securities and issue certificates therefor to the depositor.

⁵⁷ For a discussion of exchanges see Ch. XII, Exchanges of Trust Shares, p. 210, *infra*.

⁵⁸ Ch. III, Organization and Growth of Fixed Trusts, p. 33, *supra*.

⁵⁹ Public Examination, Distributors Group, Incorporated, at 10462-3.

⁶⁰ Public Examination, Diversified Trustee Shares, Series A, B, C, and D, at 7566.

In the trusts where the depositor purchased the underlying securities in the unit and deposited them with the trustee, the sponsor could take a long or short position in the underlying securities, thus taking a chance on the market trend. If the sponsor believed the market was headed upward, he could buy a quantity of the underlying securities and hold them for a rise. If, on the other hand, it appeared that the market was declining, he could go short of the securities; that is, he would permit orders for the trust shares to accumulate as long as possible before buying the requisite underlying securities and delivering them to the trustee. In either case the difference between the purchase price which the sponsor paid for the underlying securities and the price he received for the trust shares was a source of profit to the sponsor.⁶¹

In the case of Trusteed Industry Shares, one of the instances where the depositor delivered cash to the trustee to purchase the underlying securities to create trust shares instead of delivering the underlying securities to the trustee, the depositor could trade against the trust on a substantially riskless basis. This trust, Trusteed Industry Shares, will be considered here at some length because as a result of these trading practices of the sponsor, the registration statement filed by the sponsor was made the subject of a stop-order by the Commission under Section 8 (d) of the Securities Act of 1933.⁶²

This trust was originally sponsored by W. E. Stewart, one of the original sponsors of North American Trust Shares, 1953. Sponsorship was transferred to Thomas F. Lee on April 28, 1934, with a right in the seller to a retransfer in case of default and was apparently transferred back to W. E. Stewart on July 21, 1934. Sponsorship was purchased by F. D. Crosby on January 24, 1935.⁶³

The shares were sold at an offering price based on the value of the underlying securities, plus accrued distributions, plus a certain loading charge. The value of the underlying securities for the purpose of pricing the trust shares was to be determined by taking the *closing sales prices* of the underlying securities of the day preceding that on which the sale of the trust shares occurred. The total value of the fund was thus computed and thereupon divided by the number of trust shares outstanding, not including the shares to be sold in the transaction for which the price was being computed. The loading charge was then added, and the result became the offering price of the trust shares for that day.

But the trust agreement provided that for the purpose of determining the amount of cash which the depositor was to turn over to the trustee to create shares which had been sold, the closing bid prices

⁶¹ At public examinations, sponsors denied that this procedure was speculative.

(Public Examination, Distributors Group, Incorporated, at 10464 and Public Examination, Ross Beason & Co., Inc. Group, at 11072.)

⁶² *In the Matter of T. I. S. Management Corporation*, 3 S. E. C. 174 (1938).

⁶³ See Ch. IV, The Depositor, Table VIII, *supra*. The prospectus for Trusteed Industry Shares, dated April 26, 1935, and amended January 17, 1936, provides at page 13 (Reply to the Commission's questionnaire for this trust, Exhibit 19A): "A special Agreement between this corporation and Affiliated Management, Inc., was entered into on January 22, 1935, under which it is provided that W. E. Stewart shall at all times have the right to purchase TRUSTEED INDUSTRY SHARES from this corporation at actual cost of creation thereof, when they are for resale to any thrift, savings, or partial-payment plan in which he has an interest."

of the underlying securities were to be used as the value of the underlying securities. The difference between the bid and sale prices of the underlying securities was retained by the depositor and thus became an additional source of profit. The effect of the retention of the spread between the bid and sales prices on the underlying securities by the depositor was to dilute the fund by the amount retained. The bid prices were usually below the closing sales price. Thus, if the market were to remain constant, the depositor would have turned over a sum of money (based on the bid price) insufficient to purchase the securities required by the sale of the trust certificates. The new certificate holder, however, would thereupon receive a trust share equal in interest in the fund with every other trust share outstanding. Therefore, the shareholders already participating would absorb the spread proportionately. If the market declined, it would have to decline by a percentage equal to the percentage represented by the difference between the bid and sale prices on the day as of which the offering and creation price were computed in order to equalize the spread. However, had a decline taken place, the fund would have been deprived of the benefit of the additional underlying securities that the sum equal to the spread would have purchased at the reduced prices. If the market moved upward the day after the sale of the trust share, the dilution in the fund would take place to the extent represented by a fraction of the difference between the bid price on the day preceding the sale multiplied by the number of underlying shares on which the creation of trust shares was based, the numerator of the fraction being the number of shares outstanding on which the offering price was computed and the denominator of the fraction being the number of shares outstanding after the new shares were issued. In other words, the fund would be diluted in any event in a rising market if new shares were purchased at less than the price at which the underlying securities could be purchased, but the retention by the depositor of the spread between the bid and sale price on the day preceding the creation of the trust shares would accelerate the rate of dilution.

Under the practice in effect until the latter part of 1937, as soon as the exchanges closed at 3:00 p. m. the depositor was able to compute exactly what the price of one trust share would be for the day following. The depositor had until 4:30 p. m. on any given day to make settlement with the trustee, that is, to advise the trustee whether the depositor would take down trust shares to meet the day's unfilled orders or the estimated sales of the day following. In view of the fact that this determination was based on the depositor's foreknowledge of the offering price on the day following, it was, from the depositor's standpoint, scarcely possible to sustain a loss or avoid a profit. The depositor was the only person who could authorize the creation of new shares and who could determine the time of closing the transactions with the trustee.

As a general rule, delivery of the trust shares to meet orders took place from two to four days following receipt of the order by the depositor, and in some cases, a longer period of time. By reason of the fact that the depositor was able to gauge the demand for trust

shares⁶⁴ it could use its foreknowledge of the sales price, its option to deliver over a period of three or four days, and its reasonably accurate knowledge of the demand for the trust shares, to take a position which embraced only a minimum of risk. Thus, when the depositor, with a foreknowledge of the next day's price, realized that the price would be lower than the day's price, it would go short, that is, it would permit orders to accumulate, but would not make delivery of the trust shares that day. The depositor could wait until the next day or the day after, or even the following day, if the market continued to fall, before it would fill these orders by remitting cash to the trustee to create trust shares. In this way the depositor could acquire trust shares at a substantially cheaper price at the later days than if the depositor filled the order on the day on which the order was received. The depositor could hardly fail to make a profit on this "riskless trading" in the trust shares. Conversely, when the depositor realized that the price per share of the trust shares would be higher on the following day, it would buy from the trustee enough shares to cover the day's orders and, in addition, to cover the number of shares it expected to sell on the following day. The only element of risk in taking this long position would arise by a gross overestimate of the number of shares to be sold on the day following the depositor's determination which would, of course, curtail the profits on the long position; or if a large number of orders should be received by the depositor after settlement with the trustee on a given day when the depositor was in a long position, the receipt of such orders would either curtail the profits from the long position or else shift the depositor into a short position on a rising market.

Over a period of time the depositor made a steady profit on its short position, largely because of the consistent and steady demand furnished by the investment plan companies. For example, following the severe stock market break on October 19, 1937, the depositor, on or about October 21 or October 22, bought 190,000 shares from the trustee for about 88 cents per share in order to cover a short position in the trust shares. This transaction resulted in a substantial profit for the depositor.

Dealers in the field were also enabled to have information amounting to foreknowledge of sales prices. While it was stated on behalf of the depositor that the latter did not encourage dealers to take positions, it is clear that the depositor cooperated with its dealers by giving them prompt telegraphic advice of prices when such prices were determined immediately on the close of the market.⁶⁵

The effect on the corpus of the trust of trading against it by the depositor and its dealers intensified the effect of the loss suffered by the fund of monies which it should have received as the proceeds of sales if the creation of the shares and the offering prices were on the same bases. It cannot be urged that market movement, one way or the other, would level off the retention of these excess profits by the depositor or its dealers, because no matter how great the decline in the

⁶⁴ Trusteed Industry Shares were the underlying securities of 6 different installment investment plans. See Ch. IX, Distribution of Trust Shares, pp. 160-1, *supra*.

⁶⁵ *In the matter of T. I. S. Management Corporation*, *op. cit. supra*, this chapter note 62.

market, more advantageous purchases would have been possible for the fund if it had received that part of the investors' contribution to which it was entitled. No matter how great the rise in the market, it would have been possible to purchase more securities at higher prices by the addition of the sums retained by the depositor than would have been the case had those sums not been retained.⁶⁶

II. AMOUNT OF PROFITS TO SPONSORS

It is difficult to ascertain the exact amount of gross profits realized by sponsors from all these various sources, composed as they were of such small amounts per share. These total amounts have been approximated, however.

In the case of North American Trust Shares, 1953, the number of shares sold from January 2, 1929, to December 31, 1929, under the sponsorship of Lee, Stewart & Co., Incorporated, was 3,676,000. The cost of property underlying these shares was reported to be \$36,202,260, whereas the total proceeds derived from the sales to brokers and dealers were reported to be \$39,929,844.⁶⁷ The difference between these two figures is \$3,727,584, which is 10.3% of the cost of underlying property. The loading charge was advertised as consisting of a charge for issue and deposit of 18 cents per share (or 1.7% on the basis of the average month-end asked price of the shares in 1929 of \$10.75) and a charge under which "5 percent is added for cost of distribution and profit."⁶⁸ The difference between 6.7%, the advertised load, and 10.3%, the actual load on the offering price, was made up largely from these special sources of profit set out above.⁶⁹

The published load for the trusts of Transcontinent Shares Corporation was 8% during most of the period of distribution. The dealers received 5% and the depositor received 3%. Based on net sales to the public this 3% would have produced \$758,167. However, the profit-and-loss statements of the depositor indicate gross receipts after paying commissions to dealers of \$1,450,935 or almost twice the amount the published load would have produced.⁷⁰

In Trusteed Industry Shares the statement of profit and loss for the three months ended September 30, 1937 for T. I. S. Management Corporation, the depositor,⁷¹ indicated that during that period 537,162 trust shares sold for a total price of \$826,937.84. The total cost to the depositor of the underlying securities for these shares was \$738,089.72, leaving a total spread between the cost to the de-

⁶⁶ See offering prospectus for T. I. S. Management Corporation November 29, 1937, amended May 17, 1938, pp. 14, 15. (Registration statement for T. I. S. Management Corporation with the Securities and Exchange Commission, File 2-3485-1-2.)

⁶⁷ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 26.

⁶⁸ *Ibid.*, offering circular, Exhibit F-1.

⁶⁹ The profits of the sponsors of North American Trust Shares, 1953, were described by Henry A. Theis, vice president of the Guaranty Trust Company of New York, trustee for North American Trust Shares, 1953, as follows: "The sponsors of North American Trust Shares made enormous profits in distributing these trust shares to the public." (Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 987.)

⁷⁰ Reply to the Commission's questionnaire for Deposited Bank Shares, N. Y., Series A.

⁷¹ Registration Statement for T. I. S. Management Corporation filed with the Securities and Exchange Commission, File No. 2-3485-1-1, Exhibit Q, Exhibit B, and Schedule 1.

positor and the price paid by investors of \$88,848.12. In addition to this profit, there was income shown during this period of \$5,867.86 supervisory fees, \$62.40 conversion fees, and \$312.56 for dividend claims, a total of \$6,242.82, or a total profit for the period of \$95,090.94, before deducting dealer's commission, or 11.5% of the total sales of trust shares. The published load was 8.7% or 2.8% less than the actual profit. Otherwise stated, if the depositor's gross profit for the three months' period had been limited to 8.7%, it would have shown a gross profit of \$71,943.89 or \$23,147.05 less than was shown when these various other profits were realized.

III. OVERHEAD OF SPONSORS

The sponsors paid dealers' and employees' commissions and operating expenses out of the receipts on gross profits on the distribution of the trust shares. These operating expenses consisted principally of trustees' fees, advertising, legal and auditing expenses, and office expenses.⁷²

Information on the profits of sponsors is available in the cases of those sponsors which were also depositors. The following table of profits of certain depositors which were also sponsors shows that all these depositors made a profit during their history except Fundamental Group Corporation, owned by E. A. Pierce & Company, which consistently operated at a loss. Information on the profits arising from North American Trust Shares, 1953, from the period of its inception in January 1929 to May 1930 while under the sponsorship of Lee, Stewart & Co., Incorporated, is not available.

Table 32 shows the gross profit, expenses, and net profits of certain principal distributors of fixed trusts.

A. Transcontinent Shares Corporation

It is possible to derive some information from an examination of Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.), sponsor and depositor for five trusts, since in this corporation the functions of depositor, sponsor, and distributor were all merged and carried on by the same corporation. Total sales for the fixed trusts of this sponsor to the end of 1935 were \$25,272,237. It is indicated above that had the profits of this depositor been confined to its share of the loading charge after the payment of dealers' commissions, its total profit for the period from its inception to December 31, 1935, would have aggregated \$758,167 instead of \$1,450,935, or a gross profit of 5.75% of the selling price to the public which it actually received after paying dealers' commissions.⁷³

Most of the profits of Transcontinent Shares Corporation were paid out in salaries to those in control of the sponsor.

⁷² Appendix P contains tables of these expenses for certain of the larger trusts whose depositors were also sponsors.

⁷³ The practice of the sponsors, in making up the price of fixed-trust shares, of pricing underlying securities at what the sponsor considered the asked price of these securities to be, instead of using the market price, was a large source of profit to the sponsor. See this chapter, p. 170, *supra*.

TABLE 32.—*Profits of 4 distributors of fixed trusts*

Name of principal distributor	1930	1931	1932
Distributors Group, Incorporated:			
Gross profit.....	^a \$5,920,113.87	\$5,388,857.35	\$2,313,603.38
Expenses.....	5,280,978.64	4,444,518.10	2,080,054.87
Net profit (loss).....	639,135.23	944,339.25	233,548.51
Super-Corporations of America Depositors, Inc.:			
Gross profit.....	^b 694,207.91	536,594.73	534,960.30
Expenses.....	126,487.57	229,310.75	329,656.71
Net profit (loss).....	667,720.34	307,283.98	205,303.59
Fundamental Group Corporation:			
Gross profit.....	^c 59,294.82	^d 94,822.95	55,473.94
Expenses.....	84,493.30	97,346.27	60,898.03
Net profit (loss).....	(25,198.48)	(2,523.32)	(5,424.09)
Calvin Bullock:			
Gross profit.....	^e 1,241,684.18	^f 2,540,105.64	^g 2,437,764.08
Expenses.....	977,373.20	1,274,240.04	1,602,620.15
Net profit (loss).....	264,310.98	1,265,865.60	835,143.93

Name of principal distributor	1933	1934	1935	Total
Distributors Group, Incorporated:				
Gross profit.....	\$674,472.55	\$963,787.69	\$975,073.72	\$16,235,908.56
Expenses.....	1,064,983.31	1,030,936.76	831,942.77	14,733,414.35
Net profit (loss).....	(390,510.76)	(67,149.07)	143,130.95	1,502,494.11
Super-Corporations of America Depositors, Inc.:				
Gross profit.....	54,538.30	29,855.37	52.36	1,850,208.97
Expenses.....	128,638.34	27,577.06	1,832.53	843,502.96
Net profit (loss).....	(74,100.04)	2,278.31	(1,780.17)	1,106,706.01
Fundamental Group Corporation:				
Gross profit.....	119,781.37	127,218.38	103,527.58	560,119.04
Expenses.....	146,408.62	142,797.04	108,068.84	640,012.10
Net profit (loss).....	(26,627.25)	(15,578.66)	(4,541.26)	(79,893.06)
Calvin Bullock:				
Gross profit.....				6,219,553.90
Expenses.....				3,854,233.39
Net profit (loss).....				2,365,320.51

^a 7 months ended Dec. 31.^b Apr. 8 to Dec. 31.^c Oct. 1 to Dec. 31.^d 6 months ended Dec. 31.^e Nation-Wide Securities, Series B, May 6, 1930, to Jan. 30, 1932.^f United States Electric Light & Power Shares, Series A, May 8, 1927, to Feb. 28, 1930.^g United States Electric Light & Power Shares, Series B, Jan. 31, 1930, to June 31, 1932.

The following table shows deductions made for salaries during the period from 1929 to 1935, inclusive: ⁷⁴

Year:	Amount paid for salaries
1929.....	\$60,800.32
1930.....	42,501.98
1931.....	48,470.00
1932.....	55,737.17
1933.....	51,484.00
1934.....	75,324.75
1935.....	168,631.99
Total.....	502,950.21

⁷⁴ Reply to the Commission's questionnaire for Deposited Bank Shares, N. Y., Series A, Item 15.

Approximately \$200,000 of this sum went to one individual member of the sponsor, Emlen S. Hare, president of the depositor, from September 1933 to September 1935.⁷⁵

⁷⁵ Public Examination, Transcontinent Shares Corporation, at 13718. One more item may be noted as a profit to the sponsors of these trusts. Hare's, Ltd., a corporation wholly owned by Emlen S. Hare, except for a small amount of preferred stock, acted as principal in selling underlying securities to and for these trusts, as well as subdistributor for the trust shares. No figures are available to show the exact profit to Hare's, Ltd., from this business, but the profit appears to have been considerable. (Id., at 13767 f.)

As a result of several suits brought against Mr. Hare by various stockholders of the depositor corporation, Mr. Hare resigned and terminated his connection with the depositor as of March 25, 1936. (Id. at 13723 and Commission's Exhibit No. 1362.)

Chapter XI

REALIZING ON SHARES

One of the most serious problems that confronted purchasers of fixed trust certificates was that in many cases they were unable, even within a very few years after the creation of the trust, to receive cash for their certificates. This condition arose because: (a) in many cases distribution had ceased, and the principal distributor no longer repurchased shares; (b) the shares had never been listed on, or had been delisted from, organized securities exchanges; (c) no general over-the-counter markets for the shares were maintained; or (d) no machinery existed for the conversion of trust certificates into underlying securities or cash, either because the funds for meeting conversions had become exhausted, or because the certificate holder lacked a sufficient number of trust shares to entitle him to convert into cash or underlying property.¹

I. CONVERSION OF FIXED TRUST SHARES THROUGH THE TRUSTEE

One of the methods of realizing on fixed trust shares although not the method most commonly used, involved conversion or redemption of these shares by the investor directly through the trustee. In addition, in some trusts where the number of shares of each of the underlying securities in the unit deposited with the trustee was evenly divisible by a common number, conversion for a proportionate fraction of a unit was permitted. On such redemption the investor could secure from the trustee the underlying securities and other property, including any cash apportionable to his holdings. In case the holder of certificates held less than the number of trust shares into which a unit or fraction thereof was divided, the holder under many trust agreements could secure from the trustee the market value of the proportionate part of his holdings, in cash.

To protect the trustee against changes in market price while holding a fraction of a unit as the result of redemption thereof by a holder, depositors were required in most cases either in the trust agreement or by a separate instrument to establish a revolving fund in an amount equivalent to the value of a unit or a divisible part thereof. If, for example, a trust was set up on the basis of four shares each of underlying securities of various companies, the trustee would not be required to assemble a whole unit in order to sell the underlying property but could sell one-fourth of a unit and realize the value of one share each of the underlying property and so restore the revolving fund based on one-fourth of a unit.²

¹ For a discussion of the process of realizing on shares see Public Examination, Distributors Group, Incorporated, at 10468-71.

² Reply to the Commission's questionnaire for North America Trust Shares, 1953, Exhibit D-1.

The time required for redemption through the trustee varied for different trusts. In United States Electric Light & Power Shares, Inc., Trust Certificates, Series B, the time permitted for the redemption through the trustee was approximately 40 days.³ In the case of some of the more recent trusts, the period of redemption was approximately three days.

In the case of conversion through the trustee, the investor lost the original loading charge under the trust, and was charged the expenses involved in the sale of the underlying securities by the trustee and, in some cases, a conversion fee for the depositor.⁴

Table 33 shows the method of computing the break-down price in the case of Corporate Trust Shares, Original Series.⁵

TABLE 33.—*Corporate Trust Shares of American Depositor Corporation—Redemption price break-down sheet, June 24, 1930*

Atchison, Topeka & Santa Fe Ry. Co.....	\$821. 25
Illinois Central Railroad Co.....	463. 50
Louisville & Nashville R. R. Co.....	530. 00
New York Central R. R. Co.....	620. 75
The Pennsylvania R. R. Co.....	285. 25
Southern Pacific Co.....	443. 50
Union Pacific R. R. Co.....	836. 00
Standard Oil Co. of California.....	238. 00
Standard Oil Co. of Indiana.....	195. 50
Standard Oil Co. (N. J.).....	254. 25
Standard Oil Co. of New York.....	122. 75
The Texas Corporation.....	204. 00
American Radiator Co.....	98. 25
The American Tobacco Co. (class B).....	903. 50
E. I. du Pont de Nemours & Co.....	419. 00
Eastman Kodak Co. of New Jersey.....	751. 00
Ingersoll-Rand Co.....	713. 50
International Harvester Co.....	321. 75
National Biscuit Co.....	298. 25
Otis Elevator Co.....	231. 75
United Fruit Co.....	352. 00
United States Steel Corporation.....	620. 00
F. W. Woolworth Co.....	214. 75
American Telephone & Telegraph Co.....	821. 75
Consolidated Gas Co. of New York.....	412. 75
General Electric Co.....	266. 50
Westinghouse Electric & Manufacturing Co.....	523. 00
The Western Union Telegraph Co.....	633. 00
Socony Vacuum Corporation.....	-----
Total.....	12, 595. 50

³ Public Examination, Calvin Bullock Trusts, at 3910.

⁴ For profits of depositors on conversions, see Ch. X, Costs to Investors and Profits to Sponsors, p. 180, 17, *supra*.

⁵ Reply to the Commission's questionnaire for Corporate Trust Shares, Item 23 (a).

TABLE 33.—*Corporate Trust Shares of American Depositor Corporation—Redemption price break-down sheet, June 24, 1930—Continued*

Accumulated dividends and interest-----	\$2, 724. 38
Reserve fund-----	1, 000. 00
Total-----	16, 319. 88
Odd-lot charges-----	22. 00
Brokerage commission-----	28. 80
Transfer tax-----	3. 40
Total deductions-----	54. 20
Total redemption value per unit of 2,000 shares-----	16, 265. 68
Total redemption value per share-----	8. 13284
Liquidation charge (from inception to May 27, 1931, liquidation charge of 50 cents per share—from May 28, 1931, on liquidation charge of 2 percent per share-----	. 50
Actual redemption price paid to public per share-----	7. 63284

As previously mentioned, the sponsors of many trusts realized profits on the conversion by the investor of his trust shares into underlying securities through the trustee.⁶ Some trust agreements provided a conversion fee either as a percentage of the market value of the applicable underlying securities or a flat sum per share. In some cases the investor was required to convert his shares into cash on the basis of the bid prices of the underlying securities although when the same investor had purchased trust shares he had paid a purchase price based on the asked prices of the underlying securities. In most cases a large portion of the charge paid by the investor went to the depositor as profit. These charges against investors and profits to sponsors appear to have been substantial.⁷

A. Extent of Redemptions and Conversions

The total value of fixed trust certificates redeemed or converted by the public—either directly with the trustee or through the depositor corporation or the principal distributor—during the period 1927 to 1935 was approximately \$340,000,000, or an amount equivalent to about 38% of the \$900,000,000 estimated total amount of all sales of certificates by these trusts during the same period. Of these total redemptions and conversions by the trustee, it is estimated that 54% were the results of transactions of the public with the depositor corporations or principal distributors who acted as intermediaries, while the remaining 46% represented redemptions or conversions directly effected by individuals or dealers with trustees.⁸

⁶ Ch. X, Costs to Investors and Profits to Sponsors, p. 180, *supra*.

⁷ *Id.*, p. 186.

⁸ This percentage break-down is based on data for 22 fixed trusts with redemptions of \$164,000,000, or about 48% of the total redemptions of all fixed trusts included in the study. See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. VI, at 244 (House Doc. No. 70, 76th Cong.).

Since redemptions of fixed trust shares were generally made at lower price levels than sales, a more significant measure of the importance of redemptions is to be found in the ratio of number of certificates redeemed to number sold. On this basis, about 97,200,000 certificates of fixed trusts were redeemed or converted, or almost 67% of the total number of certificates sold, clearly indicating a heavy liquidation by investors of the securities of this type of investment medium. A frequency distribution of the ratios of certificates redeemed to certificates sold for the 42 largest trusts indicates that 30 out of 42 trusts had bought back more than half the number of their shares by the end of 1935 and that 22 had redeemed more than 70%. Only 5 of the 42 trusts had redeemed less than 20% of the number of certificates sold. In general, the older the trust the higher the ratio of redemptions to original sales.

TABLE 34.—*Frequency distribution of ratios of certificates converted and redeemed by trustee to certificates sold for 42 fixed and semifixed investment trusts according to year of first offering*^a

Ratio of number of shares repurchased and redeemed to number of shares sold (1927-35) (percent)	Number of trusts				
	Companies with first offerings prior to 1928	Companies with first offering in 1928-29	Companies with first offering in 1930-31	Companies with first offering in 1932-35	All companies
0.0-9.9.....			2	^b 2	4
10.0-19.9.....			1		1
20.0-29.9.....			2		2
30.0-39.9.....			3		3
40.0-49.9.....		2			2
50.0-59.9.....	1		1		2
60.0-69.9.....		2	3	1	6
70.0-79.9.....			6		6
80.0-89.9.....	2	1	2	2	7
90.0-99.9.....	^c 2	3	4		9
Total.....	5	8	24	5	42

^a Based only on those fixed trusts filing usable questionnaires, with total assets at any year-end of \$500,000 or more.

^b Issues of which there were no conversions or redemptions.

^c The ratios for these 2 issues are actually in excess of 100 but would, of course, be lower than that had sales prior to 1927 been included.

B. Redemptions and Conversions of the Larger Trusts

A consideration of the history of larger trusts shows that a substantial number of the trust shares have been converted shortly after they were issued despite the fact that most of the trusts were sold on a 20- to 25-year basis. The table below shows the number of shares redeemed by depositors and the amount received on such redemptions in the case of four trusts. It must be emphasized that the data shown do not indicate conversions by certificate holders directly through the trustee but include most conversions by the depositors, sponsors, retail dealers, banks, brokers and other dealers in the trust shares. While exact data are lacking as to the proportion of these conversions representing direct conversion it seems probable that only a small part of the total was of this type.

TABLE 35.—*Redemption of shares of four leading fixed trusts, 1930-35*

Year and quarter	North American Trust Shares, 1953 ^a		Corporate Trust Shares		Super-Corporation of America Trust Shares, Series A		U. S. Electric Light & Power Shares, Inc., Trust Certificates, Series B	
	Number of shares redeemed	Amount received	Number of shares redeemed	Amount received	Number of shares redeemed	Amount received	Number of shares redeemed	Amount received
1930								
First.....								
Second.....								
Third.....					14, 500	\$122, 380		
Fourth.....			6, 000	\$37, 080				
1931								
First.....	72, 000	\$396, 720	4, 000	24, 026				
Second.....			12, 000	63, 105	3, 500	20, 790		
Third.....	9, 209, 000	34, 257, 480	274, 000	1, 079, 347	14, 500	69, 745		
Fourth.....			8, 580, 000	26, 284, 971	42, 500	151, 300		
1932								
First.....			2, 116, 000	4, 567, 128	58, 000	151, 960		
Second.....	8, 666, 500	17, 073, 005	2, 744, 000	4, 135, 306	2, 058, 000	4, 404, 120	10, 000	\$22, 832
Third.....			428, 000	684, 987	1, 067, 500	2, 508, 625	298, 000	812, 816
Fourth.....	722, 000	1, 227, 400	3, 042, 000	5, 431, 267	101, 500	253, 750	454, 000	1, 154, 927
1933								
First.....			290, 000	405, 377	22, 500	58, 500	300, 000	714, 898
Second.....	190, 000	283, 100	168, 000	310, 818	37, 000	102, 860	544, 000	1, 299, 738
Third.....			62, 000	137, 082	67, 500	193, 725	242, 000	636, 170
Fourth.....	190, 000	342, 000	48, 000	103, 522	97, 000	245, 140	210, 000	438, 185
1934								
First.....			82, 000	173, 861	49, 000	123, 970	944, 000	1, 606, 071
Second.....	239, 500	445, 470	46, 000	91, 080	15, 000	41, 850	256, 000	429, 759
Third.....			42, 000	77, 996	7, 000	18, 690	242, 000	387, 421
Fourth.....	416, 500	724, 710	36, 000	66, 859	8, 000	22, 160	68, 000	112, 840
1935								
First.....			54, 000	99, 673	8, 500	25, 075	74, 000	150, 871
Second.....	311, 500	570, 045	30, 000	59, 133	7, 000	22, 820	58, 000	120, 668
Third.....			42, 000	93, 850	7, 500	26, 775	52, 000	107, 850
Fourth.....	117, 500	259, 675	28, 000	67, 200			50, 000	110, 487
Total.....	20, 134, 500	55, 579, 605	18, 134, 000	43, 993, 662	3, 686, 000	8, 564, 505	3, 802, 000	8, 105, 533

^a For 6 months ended in indicated quarter.

1. SUPER-CORPORATIONS OF AMERICA TRUST SHARES

The following table (Table 36) shows the number of shares of Super-Corporations of America Trust Shares converted through the trustee. (See table on following page.)

Conversion of shares of these series proceeded rapidly after sales campaigns were discontinued. Detailed information is not available as to the number of shares converted by the depositor as principal distributor, or by investors directly, nor as to the number of shares repurchased by the distributor and the aggregate cost thereof. Out of total sales of 3,866,000 shares of Series A, 3,686,000 were converted,

leaving a total outstanding as at the end of 1935 of only 4.7%. A similar rapid conversion of the other series took place, with 6.3%, 7.8%, 11.4%, 10.4%, and 13.6%, respectively, outstanding as of the latter part of 1935.

The following chart (Chart VIII) shows the close approximation between conversions of Series A and B and original sales of Series AA and BB. It appears that most of the sales of Series AA and BB were merely exchanges. In like manner, the large conversions of Series AA and BB in 1933 were coincident with other offers of exchanges.⁹

The peaks of conversions for Super-Corporations of America Trust Shares, Series A and B, were apparently coincident with the issues of new series.¹⁰

TABLE 36.—*Number and amount of Super-Corporations of America Trust Shares converted through trustee as of Dec. 31, 1935*

Series	Number of shares issued	Total cost to investors	Number of shares converted	Amount converted	Conversions as percentage of total sales (shares)	Conversions as percentage of total sales (amount)
A •	3,866,000	\$29,790,261	3,686,000	\$8,564,505	95.3	28.7
B •	1,794,000	14,155,290	1,681,000	4,120,865	93.7	29.1
C	372,000	2,834,303	343,000	1,812,083	89.5	63.9
D	374,000	2,803,745	331,500	1,740,158	88.6	62.1
AA	4,324,000	5,966,374	3,873,000	7,787,210	89.6	130.5
BB	1,931,000	2,773,140	1,668,000	3,423,195	86.4	123.4
Total	12,661,000	58,323,113	11,582,500	27,448,016	91.5	47.1

• As of Oct. 31, 1935.

Some of the conversions of shares were by management investment companies which took fixed trust shares in exchange on sales of shares of these companies.¹¹

The underlying shares were, if possible, placed in the portfolio of the new investment trust or company.

2. NORTH AMERICAN TRUST SHARES, 1953

The following table (Table 37) containing the conversions of North American Trust Shares, 1953 brought out in 1929, shows the rapidity with which the movement of liquidation by conversion took place.

⁹ See Ch. XII, Exchanges of Trust Shares, p. 221, *infra*.

¹⁰ See Table 36, *supra*.

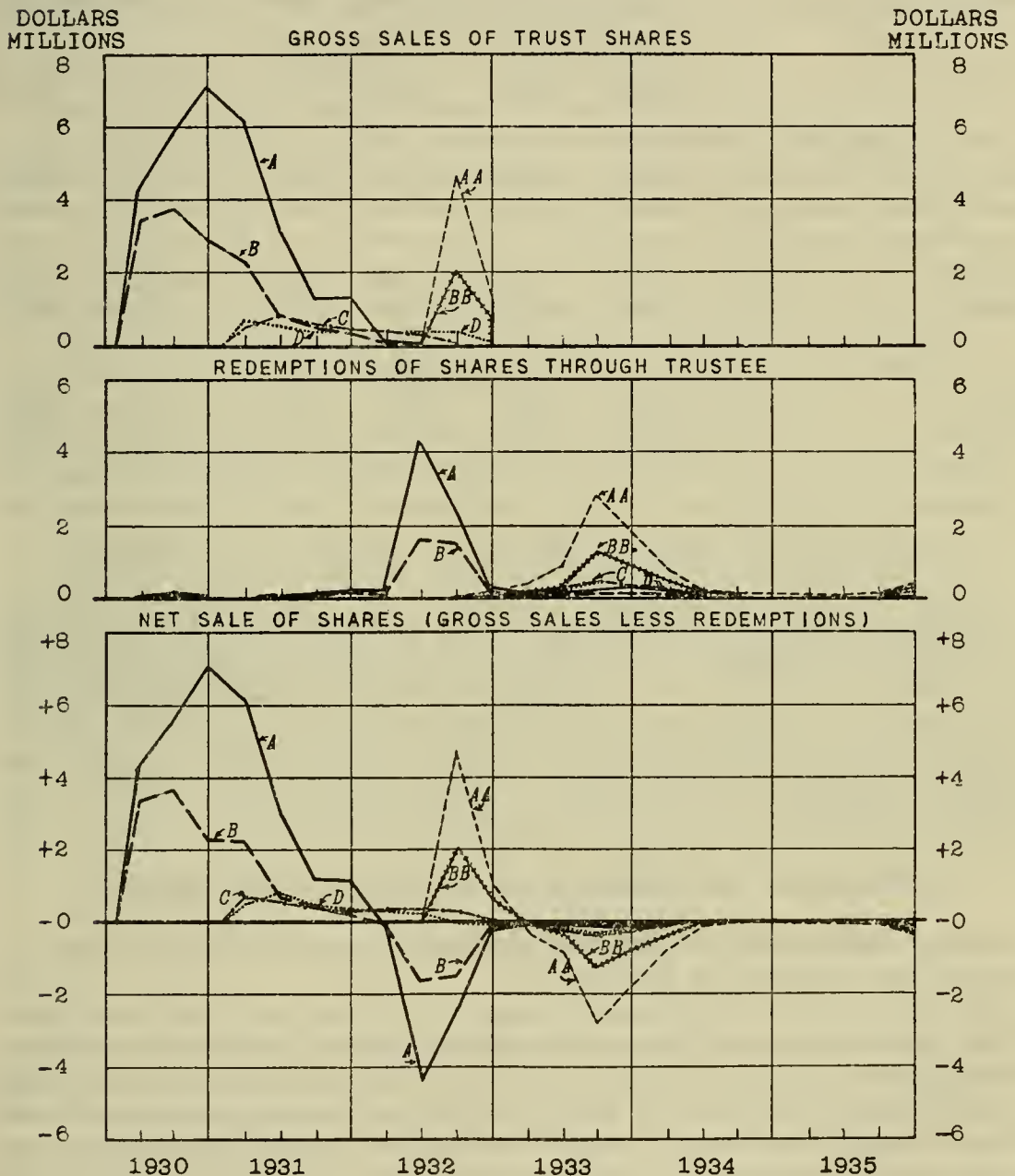
Similarly, 13,441,110 shares of Corporate Trust Shares, Original Series, aggregating \$34,987,405 were converted in the latter part of 1931 and the first half of 1932 coincident with the appearance of the new trusts, Corporate Trust Shares, Accumulative Series and Series AA. Later in 1932 there was another peak for conversions of Corporate Trust Shares, Original Series, when 3,042,035 shares aggregating \$5,431,267 were converted coincident with the modification of the Accumulative Series and Series AA.

¹¹ See Ch. XII, Exchanges of Trust Shares, *infra*.

Of the 22,703,860 trust shares which were sold at a total cost to investors of \$184,891,572, 20,134,500 shares were converted by December 31, 1935, for a total of \$55,579,605. This conversion represented 88.7% of the number of shares sold and 30.1% of the value sold as of Decem-

CHART VIII

SUPER-CORPORATIONS OF AMERICA
TRUST SHARES



ber 31, 1935. The smaller percentage of the value of shares converted was due to the decline of market prices of underlying shares in the period involved and the resultant decrease in redemption value of the trust shares.¹²

¹² Reply to the Commission's questionnaire for North American Trust Shares, 1953.

TABLE 37.—*Number and amount of North American Trust Shares, 1953, converted through trustee as of Dec. 31, 1935*

Half-year	Conversions by investor		Conversions by depositor		Total conversions	
	Shares	Amount	Shares	Amount	Shares	Amount
1931						
First.....	72, 000	\$396, 720			72, 000	\$396, 720
Second.....	649, 000	2, 414, 280	8, 560, 000	\$31, 843, 200	9, 209, 000	34, 257, 480
1932						
First.....	1, 112, 500	2, 191, 625	7, 554, 000	14, 881, 380	8, 666, 500	17, 073, 005
Second.....	447, 000	759, 900	275, 000	467, 500	722, 000	1, 227, 400
1933						
First.....	132, 500	197, 425	57, 500	85, 675	190, 000	283, 100
Second.....	133, 000	239, 400	57, 000	102, 600	190, 000	342, 000
1934						
First.....	185, 000	344, 100	54, 500	101, 370	239, 500	445, 470
Second.....	376, 000	654, 240	40, 500	70, 470	416, 500	724, 710
1935						
First.....	289, 500	529, 785	22, 000	40, 260	311, 500	570, 045
Second.....	94, 600	207, 740	23, 500	51, 935	117, 500	259, 675
Total.....	3, 490, 500	7, 935, 215	16, 644, 000	47, 644, 390	20, 134, 500	55, 579, 605

3. CORPORATE TRUST SHARES (ORIGINAL SERIES)

In like manner, of 18,862,810 shares of Corporate Trust Shares, Original Series, issued at a total cost to the investor of \$144,995,823, conversions took place for 18,136,895 shares at a value of \$43,994,966. The number of shares converted represented a total of 95.2% of the number of shares sold and 30.3% of the value of sales. Again the smaller percentage of the value of shares converted was due to the decrease in the market values of the underlying securities.

C. Reasons for Redemption of Fixed Trust Shares

Several reasons existed for this unexpected and unforeseen development in the operation of fixed trusts.

(a) Many of the trust shares were sold in the years 1929 and 1930. When the deflation of the market continued into 1932 some investors, realizing that underlying securities were being eliminated from trusts by mechanical provisions at low points in the market, converted their shares through the trustee in order to acquire the underlying securities and preserve the chances of appreciation of the underlying securities.

(b) As a result of the depression and the consequent need of funds by investors, trust shares were disposed of just as other securities were sold. These shares were sold, in many cases, to the distributor of the trust and converted by the distributor.¹³

(c) An important cause for conversion of shares was the organization of new models of trusts year after year by sponsors and the conver-

¹³ See Table 37 for conversions of North American Trust Shares, 1953, by the depositor.

sion by depositors of the old trust shares that were received in exchange for the new trust shares.¹⁴

Peaks of conversions, as indicated by the table on conversions of shares, arose when new trusts were brought out and investors were traded out of the old trusts. In the last half of 1931 and the first half of 1932, 17,875,500 of North American Trust Shares, 1953, aggregating \$51,330,485, were converted. This movement was coincident with the offers of exchange for North American Trust Shares, 1955 and 1956.

II. REPURCHASE OF TRUST SHARES BY SPONSOR OR PRINCIPAL DISTRIBUTOR

The most common method used by the investor for realizing on his trust shares was resale to the sponsor or distributor. During the active distribution of trust shares, the sponsor usually undertook to maintain a bid price and shares were frequently sold on the representation that such a bid would be maintained.¹⁵ The spread between the offering price and the bid price was largely within the discretion of the distributor, subject to the lower limit imposed by the ability of the investor to redeem the shares through the trustee at the liquidating value less expenses where the trust agreement permitted him to do so. When the distributor was actively distributing the shares, the bid price was usually maintained at approximately the asset value of the trust shares (the offering price less the loading charge) or even a little more than the asset value. When, however, the sales of trust shares diminished or were discontinued and shares were offered to the distributor by investors faster than he was able to resell them, the usual practice was to drop the bid well below the liquidating value of the underlying securities. Then as fast as the trust shares were purchased by the distributor, they were redeemed through the trustee with considerable profit to the sponsor on this "unwinding" of the trust.

In fact, when the sales campaign was discontinued, the sponsor in some cases discontinued an over-the-counter market for the trust, and the investor could not realize on his investment.¹⁶ In connection with certain trusts of Transcontinent Shares Corporation, formerly Bank and Insurance Shares, Inc., H. Clifford Shallcross, vice president and director, testified:¹⁷

Q. The holders of less than a unit or the original depositors have no way of realizing any money on the shares.

* * * * *

The reserve fund is depleted, and there is no over-the-counter market maintained, and we might not call this trust an orphan but it has certainly been kicked out of its house and home.

¹⁴ See Ch. IX, Distribution of Fixed Trust Shares, *supra*, and Ch. XII, Exchanges of Trust Shares, *infra*.

¹⁵ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit F-1. The offering circular for North American Trust Shares, 1953, stated in 1929: "A market is maintained by all authorized North American Trust Share distributors and syndicate managers at $\frac{1}{2}$ point below current offering prices."

In a later circular dated August 8, 1930 (*Id.*, Exhibit F-6), this item was changed to read: "Sponsors have consistently maintained bid $\frac{1}{2}$ point below current asked price."

¹⁶ Public Examination, Transcontinent Shares Corporation, at 13860-9.

¹⁷ *Id.*, at 13868-9.

A. I would think it is something of an orphan. However, I would point out that I understand from time to time as these new trusts came out, some effort was made to get people to sell their old trusts and I assumed that an offer was made to buy their shares.

Q. Provided—

A. Well, I don't even know whether it was conditional or not. I dare say those offers were made. There were so many of these shares outstanding and I would also say this: Probably if any such offers were made prior to the time, we found it took so long to buy a unit that we discontinued.

Q. The fact still is that a holder of shares of less than a unit, a small investor, has no way as to those two trusts to realize on his shares and therefore that he has got to hold onto those things or turn them over to somebody else until a lot of other people come in and contribute sufficient shares to complete a full unit, isn't that a fact?

A. Yes, of course. He may send them in to the trustee who, I understand, would hold them in escrow pending the accumulation of the unit and, of course, if a sufficient number of people did that from time to time, these units would be liquidated and they would get their realizing on the investment.

III. SALE OF FIXED TRUST SHARES ON SECURITIES EXCHANGES

Another method of realizing on trust shares by certificate holders was by sale on some stock exchange on which the shares were listed.¹⁸ Since the value of fixed trust shares was based upon the value of underlying stocks and other property in a unit divided by the number of trust certificates issued against the unit and since, in the case of most trusts, the holder of trust certificates could convert his holdings through the trustee at substantially the market price, any market price of the fixed trust shares would tend to approximate this redemption valuation. Since theoretically the shareholder always had a purchaser whom he could require to purchase his shares at liquidating value, which would approximate its market price, listing on any exchange was not necessary. Thus, the investor who wished to sell and could not find a buyer could in most cases secure the liquidating value which represents the market price of the underlying securities, through the process of conversion through the trustee.

However, a number of fixed trusts have been listed on exchanges as indicated by Table 38. (See page 201.)

Many of these fixed trusts were listed on the Board of Trade of the City of Chicago and the Chicago Curb Exchange because the Blue Sky Law of several of the states permitted a sale of a security without compliance with that law if the security was listed on a recognized securities exchange.¹⁹

¹⁸ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. IV, Sec. III at 290f (House Doc. No. 70, 76th Cong.).

¹⁹ Public Examination, Distributors Group, Incorporated, at 10472-3. See also Public Examination, Ross Beacon & Co. Inc., Group, at 11076-7, and Public Examination Diversified Trustee Shares, Series A, B, C, and D, at 7572.

The following tables indicate the number of trusts listed or admitted to unlisted trading privileges on the Chicago Curb Exchange, and the Chicago Board of Trade. No fixed trusts were listed on the New York Stock Exchange or New York Curb Exchange. See footnote tables on following page.

TABLE 38.—*Number of fixed trusts listed or admitted to unlisted trading privileges on security exchanges, 1927-36*^a

Number of issues as of Dec. 31										Period ^b 1927-36
1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	
1	1	8	34	41	39	30	20	5	4	56

^a Includes national securities exchanges registered at Dec. 31, 1936, under the Securities Exchange Act of 1934. Apparent differences between this table and Table 42 are due to the noninclusion herein of data for security issues traded on exchanges which ceased to operate as securities exchanges prior to Dec. 31, 1936.

Data have been adjusted to eliminate duplications resulting from the listing or admission to unlisted trading privileges of a security on two or more exchanges.

^b The figure in this column represents the number of issues listed or admitted to unlisted trading privileges on a securities exchange at some time within the period from Jan. 1, 1927, to Dec. 31, 1936.

While some of the trading in these shares on securities exchanges was probably perfunctory and merely carried on to maintain the privileges of listed status where trading was required for continued listing, trading activity in these shares in 1931, the year of greatest activity in fixed trusts, was more substantial.

The following table indicates the number of fixed trust issues traded on the principal exchanges on which fixed trust shares were principally traded.

TABLE 39.—*Total annual number of security issues of fixed trusts with reported trading on the Chicago Curb Exchange, the Chicago Board of Trade and the New York Produce Exchange, 1929-35*

[Number of issues]

	1929	1930	1931	1932	1933	1934	1935
Chicago Curb Exchange.....	1	25	34	26	17	20	6
Chicago Board of Trade.....		9	10	11	10	3	1
New York Produce Exchange.....		18	20	16	11	7	3
Total.....	1	52	64	53	38	30	10

Number of issues of fixed trusts listed annually on the Chicago Board of Trade, and the number of such issues with reported trading, 1929-35

Number of listed issues	1929	1930	1931	1932	1933	1934	1935
At beginning of year.....		4	7	10	11	9	1
Added within year.....	4	5	3	2			
Removed within year.....		2		1	2	8	1
At end of year.....	4	7	10	11	9	1	
Number of issues traded in within the year.....		9	10	11	10	8	1

Number of issues of fixed trusts listed or admitted to unlisted trading privileges annually on the Chicago Curb Exchange and the number of issues with reported trading, 1929-35

Number of issues listed or admitted to unlisted trading	1929	1930	1931	1932	1933	1934	1935
At beginning of year.....		2	25	30	29	24	22
Added within year.....	2	23	11	6	1		
Removed within year.....			6	7	6	2	16
At end of year.....	2	25	30	29	24	22	6
Number of issues traded in within the year.....	1	25	34	26	17	20	6

Table 40 indicates the annual reported volume of trading of fixed trust shares on these security exchanges from 1929 to 1935.

TABLE 40.—*Annual reported volume of trading in shares of fixed trusts, 1929–35*

[Number of shares]

	1929	1930	1931	1932	1933	1934	1935
Chicago Curb Exchange.....	400	124, 423	472, 148	258, 209	125, 451	30, 037	6, 315
Chicago Board of Trade.....		141, 865	271, 745	43, 545	21, 200	6, 070	125
New York Produce Exchange.....		79, 625	134, 480	11, 800	7, 125	2, 100	3, 800
Total.....	400	345, 913	878, 373	313, 554	153, 776	38, 207	10, 240

In 1935 the listing of fixed trust shares on securities exchanges was discontinued and all fixed trust shares listed on exchanges were delisted. The reasons for this discontinuance of exchange listing were described by Mr. Myers then with Distributors Group, Incorporated:²⁰

A. The activity in them since discontinuance of public offering had gotten down to a small percentage and then the Securities and Exchange Act came along and required certain things to be done by listing companies which was almost impossible, and further, we didn't see any reason why we should do that and we requested the delisting.

Q. Did the requirements of the Act involve any substantial preparation or substantial expense on your part?

A. I am sorry, I just don't know, Mr. Carver. It was a requirement to keep a very accurate check of the number of shares outstanding which would require a great amount of detail.

Q. And you thought because of the public apathy it was not worth it?

A. The ultimate market is the ability of the holder to surrender his share and get the cash. That always pegs the market.

Q. There was never any great amount of activity on the various Exchanges by these trust shares, was there?

A. I believe not.

Q. In other words, the principal market that the certificate holders had was over-the-counter market, maintained by Distributors Group.

A. That was the big market, and the place everybody went to.

Q. Did the fact these shares were listed on the organized Exchanges interfere in any way with your offer in the market?

A. Not to my knowledge, Mr. Carver.

Q. It is a fact, isn't it, in case of North American Trust Shares, 1953, approximately 92 or 93 percent of the shares which had been sold were redeemed?

A. The figure I had in mind, Mr. Carver, was somewhere around 85 percent. You, however, undoubtedly compared it and are undoubtedly nearer right than I am.

Q. In other words, that would approximate the figure?

A. Yes, sir.

²⁰ Public Examination, Distributors Group, Incorporated, at 10473–5.

The following table shows the number of fixed trusts delisted by the Chicago Curb Exchange. The large number delisted in 1935 was due to the failure of sponsors or depositors to have the trusts registered under the Securities Exchange Act of 1934.

TABLE 41.—*Delisting of fixed-trust shares on Chicago Curb Exchange, 1931–35*

Reason for delisting	Number delisted					
	1931	1932	1933	1934	1935	Total
Request of depositor.....	4	4	—	1	1	10
Failure to register with Securities and Exchange Commission under Securities Exchange Act of 1934.....	—	—	—	—	10	10
Liquidation of trust.....	1	1	6	1	—	9
Reason not known.....	1	1	—	—	—	2
Total.....	6	6	6	2	11	31

The result of these various delistings was that, by the end of 1935, when distribution of fixed trust shares had largely ceased except to installment investment plans,²¹ and most of the distributors had either lost interest in fixed trusts which they had sponsored or were no longer in business, the investors were deprived of one method of realizing on their shares.

IV. OVER-THE-COUNTER MARKETS

Another method available to the investor for realizing on fixed trust shares was to sell his certificates in the over-the-counter market.²² Table 42 gives a comparison as of December 31, 1930, and December 31, 1936, between the number and aggregate assets of fixed trusts which were listed or admitted to unlisted trading privileges on a securities exchange, and the number and assets of fixed trusts which were restricted solely to the over-the-counter markets.

TABLE 42.—*Comparison by number and aggregate assets of fixed investment trusts with issues traded on securities exchanges and those dealt in solely on over-the-counter markets, Dec. 31, 1930, and Dec. 31, 1936*

[Amounts in millions of dollars]

	Companies with one or more issues listed or admitted to unlisted trading privileges			Companies all the issues of which were traded only over-the-counter		
	Number of companies	Aggregate amount of total assets	Average amount of total assets per company	Number of companies	Aggregate amount of total assets	Average amount of total assets per company
Dec. 31, 1930.....	40	• 318	8.0	86	• 39	0.5
Dec. 31, 1936.....	4	• 60	15.0	83	• 123	1.5

• Total assets for these companies partially estimated.

²¹ See Ch. IX, Distribution of Fixed Trust Shares, p. 159, *supra*.

²² See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. IV, Sec. VII at 325 (House Doc. No. 70, 76th Cong.).

Certain dealers maintained bids on fixed trust shares below the liquidating value and on purchasing enough trust shares to assemble a unit converted at a profit the trust shares through the trustee into the underlying securities. In some cases the over-the-counter dealers were able to resell the trust shares to the public.

It was also the practice of some dealers to purchase the fixed trust shares at the liquidating value as defined by the trust agreement, and, because the dealers were not required to pay brokerage and certain other expenses and premiums on the sale of the underlying shares, they were able to realize a small profit thereon by converting these trust shares through the trustee. Naturally, these markets were only maintained in shares which had satisfactory and functioning conversion provisions. Thus, if there were no such provisions with respect to a particular trust, this method of realizing by sale to dealers was not available to the certificate holder.

Original distribution of certificates of fixed trusts had generally ceased by October 1936. Yet, a substantial amount of over-the-counter activity in these securities still continued.²³ Tables 43 and 44 indicate over-the-counter sales by firms acting as dealers and principal distributors for four weeks ending October 31, 1936.

TABLE 43.—*Over-the-counter transactions in fixed trusts by firms acting as dealers for 4 weeks ended Oct. 31, 1936*

Transactions	Purchases		Sales	
	Number of shares	Value	Number of shares	Value
As principal with—				
Trust, issuing company, or trustee.....			253,039	\$925,956
Principal distributor or sponsor.....	3,435	\$10,878	21,864	79,781
Dealers.....	472,807	1,821,254	206,740	813,525
Others.....	3,385	12,511		
Total.....	479,627	1,844,643	481,643	1,819,262
As broker.....	8,527	33,576	7,837	30,247

TABLE 44.—*Over-the-counter transactions in fixed trusts by firms acting as principal distributors, for 4 weeks ended Oct. 31, 1936*

Transactions	Purchases		Sales	
	Number of shares	Value	Number of shares	Value
As principal with—				
Trust, issuing company or trustee.....	37,038	\$109,414	119,000	\$370,200
Dealers.....	106,513	472,836	43,476	225,436
Others.....	23,866	70,230	3,651	12,877
Total.....	167,417	652,030	166,127	608,513

²³ Id., at 328. Information on trading of fixed trust shares covered the following issues: Corporate Trust Shares, Accumulative Series (Modified); Corporate Trust Shares, Series AA (Modified); Cumulative Trust Shares; Deposited Bank Shares, N. Y., Series A; Deposited Insurance Shares, Series A; Diversified Trust Shares, Series D; North American Trust

Transactions of reporting firms during the four-week period ending October 31, 1936, amounted to purchases of about 657,000 certificates with a dollar value of about \$2,535,000, and sales of 656,000 certificates with a dollar value of slightly less than \$2,458,000.²⁴ The dollar amount of transactions in fixed trust certificates was about 16% of trading in all types of investment trust and investment company securities by the 26 reporting firms in October 1936.

Transactions of "trading firms"²⁵ and of distributors of certificates of issues other than those which they had sponsored, were about 75% of the total volume of trading by all reporting firms in these fixed trust issues. Transactions by principal distributors in their sponsored issues thus amounted to about 25% of the total, reflecting the smaller importance of the sponsor firms in the market for this type of issue which is no longer being originally distributed.

The direction of the trading of the fixed trust certificates is indicative of the general shrinkage in the supply of these securities. The "wholesale trading firms" bought substantially all their shares from other retail or wholesale dealers, while more than 50% of the sales of these "trading firms" represented liquidations or conversions with the trusts or trustees. The principal distributors took down practically no shares from the trustees, since selling of the certificates had

Shares, 1955; North American Trust Shares, 1956; Super-Corporations of America Trust Shares, Series AA; and Super-Corporations of America Trust Shares, Series BB. For data for each of these issues, see Report on Investment Trusts and Investment Companies, Pt. Two, Ch. IV, Tables 109 and 110 at 350-3 (House Doc. No. 70, 76th Cong.).

²⁴ Id., Pt. Two, Ch. IV, Sec. VII, at 328.

²⁵ Id., at 325-6, 328-9. In view of the character of the over-the-counter market for these fixed trust securities, the sum total of trading includes primarily transactions: (1) between customers and retail dealers; (2) among the retail dealers themselves; (3) between the retail dealers and the principal distributors or "trading firms"; (4) among the "trading firms"; and (5) between the "trading firms" and the principal distributors. To obtain some quantitative measure of this over-the-counter market, some data were obtained on that portion of the trading in which either principal distributors or "trading firms" were involved, i. e., the "wholesale" trading. Physical limitations made it impracticable, in connection with this study, to measure the balance of the market; but it is believed that transactions to which a principal distributor or a "trading firm" was a party made up a large proportion of total trading activity.

The data are based on a questionnaire covering trading in 10 fixed trust issues during the 4 weeks from October 5, 1936, through October 31, 1936. Replies were received from 26 trading firms, principal distributors or sponsors. These firms are believed to have accounted for most of the "wholesale" trading during the period.

Reports were received from the following principal distributors:

American Trustee Share Corporation.	Mackubin, Legg & Co.
Bank and Insurance Shares, Inc.	Massachusetts Distributors, Inc.
Calvin Bullock.	The Parker Corporation.
Distributors Group, Incorporated.	State Street Research & Management Corporation.
Lord, Abbett & Company, Inc.	
Maryland Sponsors, Inc.	

and the following trading firms:

Akin, Lambert Co.	Lord, Abbett & Co., Inc., of Illinois.
Asiel & Co.	Manney & Greene.
Baar, Cohen & Co.	Mathews, Dahlin & Co.
Gonder, Kelly & Co., Inc.	May & Gannon.
Hammerschlag, Borg & Co.	Newton Levinson & Co.
Hare's, Ltd.	Sutro Bros. & Co.
Independence Shares Corporation.	Thornton & Curtis.
Kennedy & Co.	(J. Arthur) Warner & Co.

In addition to the information on the 10 specific issues, these concerns supplied figures indicating their total volume of trading in investment company securities of all types

virtually ceased, but bought most of their supply from the dealers. These distributors also sold to dealers only about 25% of the total number of certificates sold by them and they liquidated the major portion with the trustee. Thus, most of the fixed trust certificates were flowing back to the trust itself to be liquidated for cash or converted into the underlying securities.

A comparison between the price quotations of sponsors and trading firms for fixed trust shares indicates about the same relationship as existed for open-end company shares, except that the bids of the trading firms for fixed trusts were definitely higher than those of the sponsors—the difference between the bids of the two types of firms being about 1%. The higher bids of the trading firms confirm the fact that the market for fixed trust certificates at the end of 1936 was primarily a “flowback” of certificates to the trusts. “Wholesale trading firms” paid slightly more than the sponsors’ bids because these firms measured their profits in terms of the liquidation or conversion of full units, in which process they saved parts of the commissions and charges deducted by the sponsor in making his bids.

V. ORPHAN TRUSTS

Purchasers of fixed trust shares in a large number of cases found themselves, within a relatively short period after their original investment, unable to realize on the shares which they had purchased. In such cases the disappearance of these methods of realizing on shares was generally caused by the discontinuance, either voluntary or involuntary, of the business of the depositor. Thereupon the trustee would cease its active connection with the trust, frequently because the rate of compensation was insufficient to sustain its interest in the trust. The result was that no responsible party was connected with the trust with whom the investor could deal. Trusts whose holders were thus left without any method for realizing on their shares were commonly called “orphan trusts.”

In some instances investors were unable to realize on their shares even where both the trustee and the depositor were still in business and maintaining their respective connections with the trust. In Deposited Bank Shares, Series B-1, the holder of less than a unit of trust shares was unable to realize on his shares because the over-the-counter market no longer existed and the trust agreement made no provision for conversion of less than a unit of trust shares.²⁶ The depositor corporation used this circumstance to make an offer of exchange to the holders of these shares into a later trust which they sponsored, at great disadvantage to such holders.

Perhaps the outstanding example of abandonment of a trust by its sponsors and its consequent orphanage is Key Industry Trust Shares, Series H, in which trust the investors were completely unable to liquidate their investments.²⁷

Investors could secure little or no information concerning several other trusts sponsored by United States Shares Corporation, in which

²⁶ Public Examination, Trancontinent Shares Corporation, at 13868.

²⁷ Public Examination, The Equity Corporation, at 8202-5. See also Ch. IV, The Depositor, pp. 64-5, *supra*.

the public had invested approximately \$30,000,000, and were unable to liquidate their shares in these trusts.²⁸

A similar situation existed with respect to Universal Trust Shares²⁹ and Schuyler Trust Shares. The Commission could secure little or no pertinent information relating to a total of 38 trusts, including those above mentioned, in connection with its Investment Trust Study.

²⁸ Ibid. Among these trusts are Bank Stock Trust Shares, Series C-2; Bank Stock Trust Shares, Series C-3; Common Stock Trust Shares, Series A-1; Insurance Stock Trust Shares, Series F (later United Insurance Trust Shares); and United Fixed Trust Shares (later United Fixed Shares, Series Y). (See Ch. IV, *The Depositor*, pp. 53, 64, *supra*.)

²⁹ The depositor corporation for this trust, Transcontinental Shares Corporation was placed in bankruptcy in 1932. (*Poor's Fiscal Volume*, 1938, p. 3393.) The last known depositor for Universal Trust Shares was National Associated Dealers, Inc., for which Francis D. McGarey, 51 Chambers Street, New York, N. Y., was appointed receiver. (*Moody's Manual of Investments, Banks, etc.*, 1939, p. 1043.)

Chapter XII

EXCHANGES OF TRUST SHARES

When the selling campaign for a particular fixed trust was over and investors offered resistance not only to the purchase of new shares but even to the reinvestment of the distributions received on their trust shares, sponsors generally made a series of offers to exchange shares of the old trusts for shares of newly created trusts. The usual procedure, which was followed by many of the leading sponsors, was to induce the investor to exchange the original fixed trust shares into shares of the new model of fixed trust, and then after a few months had elapsed, to induce him to exchange the shares of the later fixed trust into the stock of an open-end management investment company.¹ The necessity for these exchanges was generally ascribed to changing economic conditions.

I. EXCHANGE OFFERS OF SPONSORS

Two exchanges were usually the maximum that any sponsor could induce the certificate holder to accept, because after the second exchange the capital of the investor had been so depleted by the successive loading charges and reduced by the market decline which began in 1929 that he had comparatively little left to exchange. Where, moreover, the investor was reluctant about making the exchange promptly, sponsors did not hesitate to suggest the possibility of terminating the trust over his head.² If an investor did not accept one offer, he was frequently approached repeatedly by the same sponsor or by competitors who desired to sell their trust shares.

If the original sponsor remained in business after one selling campaign was over, his offers of exchange were made for shares of other trusts he was offering. Thus, investors in North American Trust Shares, 1953, were offered, in exchange for their shares, shares of North American Trust Shares, 1955 and 1956. Later they were offered for their North American Trust Shares, 1955 and 1956, shares in a management investment company, Group Securities, Inc. Holders of Corporate Trust Shares were offered an opportunity to exchange their original shares for Corporate Trust Shares, Series AA or Accumulative Series, then the shares of a modified form of each trust, and finally for the shares of Quarterly Income Shares, Inc., a management type of investment company. Super-Corporations of America Depositors, Inc., which was organized by S. W. Straus & Co., Incorporated, and assigned to new sponsors four times from 1930 to 1935,³ made offers to exchange the original series, Super-Corporations of America Trust Shares, Series A and Series B, for Series AA and BB;

¹ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. III, Sec. III, at 221 (House Doc. No. 70, 76th Cong.).

² See *infra* this chapter, pp. 223, 226.

³ See Ch. IV, The Depositor, p. 47, *supra*.

then, apparently, for Supervised Shares, Inc.; and then for stock of American Business Shares, Inc.⁴

The extent to which the process of exchanging fixed trust shares has been carried is indicated in the table in Appendix Q in which are listed the original trusts, the security offered in exchange therefor, the terms of the offer, the number of shares, and the approximate dollar value of the amount exchanged. Of the 56 fixed trusts studied,⁵ offers of exchange were made for approximately 36. The total number of offers made was 49, because more than one offer of exchange was made for some trusts.⁶ Trust shares to the amount of approximately \$91,686,010 were exchanged by virtue of the offers for which information is available.

To secure every possible share in exchange, some sponsors suggested to dealers that any trust shares pledged with the banks should be exchanged. A letter dated March 24, 1932, signed by American Depositor Corporation, stated:⁷

We suggest that you immediately contact the proper persons (loan officer or trust officer in most cases) in each of your local banks. Explain that we have issued exchange warrants which should get in the hands of every holder of Original Series CORPORATE TRUST SHARES. Show a copy of the warrant, and point out that because these shares are in bearer form we have no way of directly reaching many of the owners of these shares. Call attention to the fact that these warrants and the right expressed therein expire June 15, 1932.

Then ask the banker's cooperation to the extent of his mailing a letter and a warrant to each of his customers owning Original Series CORPORATE TRUST SHARES which the bank is holding. A suggested letter for this purpose is attached hereto. Leave with the banker a sufficient quantity of your warrants for his needs.

You may, if you wish, reallocate the bank 1% on the base price of the new shares to cover its cost of handling, in event the bank's letter results in an exchange. In some cases this may be advisable in order to get the bank's active cooperation.

II. LOADING CHARGES ON NEW TRUST SHARES

The offers of exchange frequently provided that the investor who exchanged his shares should not be charged the full load on the new shares, but the discount rarely represented a substantial sacrifice of profit to sponsors. Generally, the switch was from one fixed trust to another and then to an open-end management company of the same sponsor.⁸ A so-called "preferential bid" was made—the sponsor bid a

⁴ See *infra* this chapter, p. 221.

⁵ Trusts for which replies to questionnaires were filed and in each of which there was a public participation of \$500,000 or over.

⁶ See Appendix Q for offers of exchange. However, even more offers to exchange shares were made either by sponsors or their competitors, but full information is not available as to them. Comparatively more offers of exchange seem to have been made for shares of trusts for which Summary Statements were filed (those having a public participation of less than \$500,000), but full data have not been compiled thereon.

⁷ Reply to the Commission's questionnaire for Corporate Trust Shares, Original Series, Exhibit T.

⁸ See Report on Investment Trusts and Investment Companies. Pt. Two, Ch. III, Sec. B, at 221 (House Doc. No. 70, 76th Cong.). This method of switching was used par-

little more for the fixed trust certificates than the price which the holder of such certificates would receive from the trust on redemption. This preferential bid was made because: (a) the new trust or company could convert the fixed trust certificates thus acquired into the portfolio securities, which were, in part, identical with its own portfolio investments; and (b) the cost of acquiring portfolio issues in this manner was less than the cost of buying them in the market, since brokerage commissions, and various other types of expenses were eliminated.

Not infrequently the investor was led to believe that exchanges were made by sponsors without profit. Hugh Bullock, of Calvin Bullock, testified:⁹

Q. Now, your next activity in Nation-Wide was in 1934, wasn't it?

A. Yes.

Q. On January 18 there was an exchange offer of Nation-Wide A and Nation-Wide B and USELPS A and USELPS B?

A. Yes.

Q. At the current liquidating value plus 3 percent of such value, and the proceeds to apply to purchase Nation-Wide voting, at the public offering prices, and the public offering prices included a 9½ percent premium on Nation-Wide voting to Bullock? Is that correct?

A. That is correct.

Q. So that that was another offer of exchange, and in this exchange the shareholders paid an additional load to Bullock?

A. A reduced premium voluntarily paid by them if they see fit to accept the offer. That offer was not made until after we sent our dealers this letter, from which I should like at this time to summarize two or three points.

It starts, "We supervise ten investment funds. We have never asked shareholders of one of these to exchange their shares for those of the others."

And then, farther down:

"Nothing in the investment trust field as a whole has engendered more criticism than constant offers of exchange by one trust for another. Sometimes, to be sure, it is to the advantage of the investor to effect an exchange; more often the cost to him makes it inadvisable."

Then we say, just to conclude:

"We should like to work toward a plan where holders of our unit trusts"—and then we list our unit trusts—"could be permitted to exchange their shares, if they desired, for shares of our more recent trusts, without payment of a second premium.

"For example, we believe because of the more flexible features of a trust like Nation Wide Securities Company, it would be distinctly to the advantage of holders of our unit trusts to exchange their shares for its voting shares.

"Would you be willing that we make this offer without profit to you or to ourselves?"

* * * * *

Q. But out of this reduced load you nevertheless got sufficient to cover your expenses in connection with the matter, and make a small profit, didn't you?

A. Yes.

ticularly in 1933 after fixed trusts had fallen into popular disfavor and open-end company securities were being actively distributed.

⁹ Public Examination, Calvin Bullock Trusts, at 4182-4.

While in some cases the load on the new shares was reduced by an allowance on the old fixed trust shares, in some instances bids on the old shares considerably below liquidating value were maintained by sponsors. Miss Helen T. Wilwerth, assistant secretary and assistant treasurer of Transcontinent Shares Corporation (formerly Bank and Insurance Shares, Inc.), testified:¹⁰

Q. Now, you have heard the question about [your] exchange offer of 10 to 20 per cent discount?

A. Well, I don't know that the term "discount" is correct, but we did make a bid price at times which ran from 10 to 20 percent below the liquidating value, for the reason that we had to accumulate full units before we could get cash for those trust shares.

Q. And I believe that when you were accumulating those full units, that made you a trust shareholder, didn't it?

A. That is correct.

Q. Why did you lose money by becoming a trust shareholder?

A. We might lose or we might gain, according to the market action during the period that we had accumulated these shares.

Q. But you felt that you would have to allow 10 to 20 percent to protect yourself against an unfavorable market action?

* * * * *

A. That is correct.

III. EXCHANGE OFFERS OF LEADING SPONSORS

Sponsors of practically all trusts having substantial public distribution instituted these exchange offers. As a result the investors, in many cases, over a period of two or three years paid a series of loading charges (each charge was supposed to service investments for twenty or twenty-five years) and finally were switched into a management company which was subject to periodic management charges.

A. Exchanges Among Trusts Sponsored by Distributors Group, Incorporated¹¹

A series of exchanges within a group of trusts of one sponsor is found in the trusts sponsored by Distributors Group, Incorporated. According to John Sherman Myers, chairman of the board of directors of Distributors Group, Incorporated, this sponsor never effected exchanges of the shares of one trust for another, but rather the investor was permitted to "liquidate one trust and use the proceeds to purchase shares of another."¹² However, the depositor denominated the transactions in its own advertisements as an "exchange"¹³ and stated in its literature:¹⁴

¹⁰ Public Examination, Transcontinent Shares Corporation, at 13874-5.

¹¹ On March 21, 1938, Distributors Group, Incorporated, assigned all its rights as depositor to North American Depositor Corporation, which is now controlled by Lord, Abbott & Company, Inc.

¹² Public Examination, Distributors Group, Incorporated, at 10475.

¹³ Reply to the Commission's questionnaire for North American Trust Shares, 1953, Exhibit J-1. See p. 53, supra.

¹⁴ Id., Exhibit J-3. For purposes of this discussion, therefore, the transactions discussed will be designated "exchanges."

It is our opinion that it will be to the advantage of Trust Shareholders to make this exchange * * *. It should be recognized that it is physically impossible to arrange such an exchange without a substantial charge which includes provision for continuous services set forth in the new Trust Agreements.

1. EXCHANGE OF NORTH AMERICAN TRUST SHARES, 1953 FOR SERIES 1955 AND 1956

On November 5, 1931, an offer, effective to May 16, 1932, was made enabling certificate holders of North American Trust Shares, 1953, upon the resale of these shares to the depositor, to reinvest the proceeds in North American Trust Shares, 1955 and/or North American Trust Shares, 1956, upon a preferred basis. From November 5, 1931 to December 31, 1931, the premium was 10 cents per share above the bid price. The load on the new shares, however, was $91\frac{1}{2}\%$ of the value of the underlying stocks. It is estimated that the approximate number of shares purchased, as a result of the offer made by the depositor, was between 16,000,000 and 18,000,000 shares, for an aggregate of between \$32,000,000 and \$36,000,000.¹⁵ The amounts exchanged represented approximately 75% of the number of North American Trust Shares, 1953, originally sold. Of the original issue of 21,672,000 shares of North American Trust Shares, 1953, only 7.1% were outstanding as of December 31, 1935.

2. EXCHANGE OF NORTH AMERICAN TRUST SHARES, 1955 AND 1956, FOR GROUP SECURITIES, INC.

After the investor had held the series of 1955 and 1956 for approximately two years, he was "given an opportunity" to sell these series and buy Group Securities, Inc., an unrestricted management investment company with open-end features. In April 1934 the depositor offered holders of the series of 1955 and 1956 a discount on the purchase of shares of Group Securities, Inc., upon reinvestment of the proceeds from the sale of their holdings in the fixed trusts. Following this offer, 640,923 shares of the series of 1955 and 1956 were exchanged to the extent of \$1,428,320 or 2.8% of the number of shares issued.

3. EXCHANGE OF NORTH AMERICAN TRUST SHARES, 1958, FOR GROUP SECURITIES, INC.

In the case of North American Trust Shares, 1958, which was brought out July 1, 1933, and of which 358,000 shares totaling \$950,540 were sold, an offer to exchange into Group Securities, Inc., was made on April 14, 1934—ten months later. As a result, 218,810 shares totaling \$560,116, or approximately 60% of the total number of shares issued, were exchanged into Group Securities, Inc. The load on the stock of Group Securities, Inc., was $83\frac{3}{4}\%$ of the offering price (or about $91\frac{1}{2}\%$ of the asset value) but those who exchanged were permitted to pay a load of $43\frac{8}{9}\%$ to 6% instead of the full $83\frac{3}{4}\%$.

¹⁵ Id., Item 30. See also Public Examination, Distributors Group, Incorporated, at 10475-7.

Thus, a total of 17,866,008 shares¹⁶ of the various trusts sponsored by Distributors Group, Incorporated (including exchanges of Cumulative Trust Shares for Group Securities, Inc.—see Table 45), amounting approximately to \$36,000,000 on which a net new loading of about \$1,600,000 was charged, were exchanged by investors in the period from 1931–1934.

4. EXCHANGE OF NORTH AMERICAN TRUST SHARES, 1955, AND NORTH AMERICAN TRUST SHARES, 1956, FOR AMERICAN BUSINESS SHARES, INC.

The most recent exchange affecting the holders of the various series of North American Trust Shares (up to December 31, 1938) was made on May 19, 1938, by Lord, Abbett & Company, Inc., after that corporation had acquired sponsorship of the fixed trusts previously sponsored by Distributors Group, Incorporated.¹⁷ By the terms of the offers, 67 and 66 shares of the stock of American Business Shares, Inc., an open-end management type investment company organized and sponsored by Lord, Abbett & Company, Inc., were offered in exchange for 100 shares of North American Trust Shares, 1955, and North American Trust Shares, 1956, respectively.¹⁸ Apparently no offers were made to the holders of North American Trust Shares, 1953, North American Trust Shares, 1958, or of Cumulative Trust Shares. A cash differential was also allowed, based on the liquidating value of the shares of the investment company stock and trust shares involved in the exchange. The differential, as computed on May 17, 1938, was set forth in the letter as \$21.56 per 100 North American Trust Shares, 1955, and \$20.60 per 100 North American Trust Shares, 1956. The original offering letter stated that the offer would terminate on June 15, 1938.¹⁹

Certain computations may be made, based on the differential on May 17, 1938, which will indicate the basis of the exchange. The liquidating or break-up value of one share of stock of American Business Shares, Inc., as of the close of business May 17, 1938, was \$2.95.²⁰ The liquidating value of one North American Trust Share, 1955, at the same time was \$2.35.²¹ The total value, at market, of 100 fixed trust shares was \$235 against a value for 67 shares of stock of the management investment company of \$198.32, with the differential of \$21.56 current at that date. An investor who accepted the offer thus exchanged a value in trust shares of \$235 for stock and cash of a value of \$219.88. The difference of \$15.12 per hundred trust shares represented a load of 7.62% of the base price, or 7.10% of the

¹⁶ Based on the figure 17,000,000 as the number of shares of North American Trust Shares, 1953, exchanged—officials of the depositor estimated the number as between 16,000,000 and 18,000,000 shares. (Reply to the Commission's questionnaire for North American Trust Shares, 1953, Item 30.)

¹⁷ See Ch. III, Organization and Growth of Fixed Investment Trusts, *supra*, and Ch. IV, The Depositor, *supra*, for details of this acquisition.

¹⁸ Supplementary information supplied the Commission for North American Trust Shares, 1955.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

TABLE 45.—*Trusts sponsored by Distributors Group, Inc., table of exchanges*^a

	Date of exchange offer	Number of shares exchanged	Dollar value of shares exchanged	Net load on new shares (in percentage) ^b	Net loading charge (in dollars)
1. North American Trust Shares, 1953 into Series 1955 and/or 1956.....	Nov. 5, 1931.....	{ 16,000,000 to 18,000,000	{ \$32,000,000 to \$36,000,000	4½	\$1,530,000
2. North American Trust Shares, 1955 into Group Securities, Inc.....	April 1934.....	228,395	505,287	5	25,264
3. North American Trust Shares, 1956 into Group Securities, Inc.....	do.....	412,528	923,033	5	46,152
4. North American Trust Shares, 1958 into Group Securities, Inc.....	do.....	218,810	560,116	5	28,006
5. Cumulative Trust Shares into Group Securities, Inc.....	do.....	6,275	23,081	5	1,154
6. Total of all fixed trust shares into Group Securities, Inc. (2+3+4+5).....	.....	866,008	2,011,517	.....	.....

^a This table is compiled from material in item 30 of the replies to the Commission's questionnaire for the trusts named. See also Public Examination, Distributors Group, Inc., Commission's Exhibit No. 1000.

^b Estimated.

offering price of the stock of American Business Shares, Inc. This was 2.04% less than the load paid by a cash investor in the stock of American Business Shares, Inc., at the same date on the basis of offering price or 1.78% less than the load paid by such investor on the basis of base price.²²

B. Exchanges Among Trusts of the Ross Beason & Co., Inc. Group

Another series of exchanges of some interest is found within the group of trusts created by American Depositor Corporation, now controlled by Maryland Sponsors, Inc., and sponsored by Ross Beason & Co., Inc., and Smith, Burris and Co.

1. EXCHANGE OF CORPORATE TRUST SHARES (ORIGINAL SERIES) FOR ACCUMULATIVE SERIES OR SERIES AA

The first offer, made on November 19, 1931, extended through June 15, 1932, and contemplated an exchange of Corporate Trust Shares, Original Series, for either Corporate Trust Shares, Accumulative Series, or Corporate Trust Shares, Series AA, at the holder's option.²³ The holders of shares were allowed a premium of one-eighth of a dollar above the current bid price of their shares if the proceeds should be applied to the purchase of the shares of the Accumulative or the AA series. From March 15, 1932, until the termination of the offer on June 15, 1932, a premium of 10 cents per share was allowed holders of the Original Series on exchanges. The new shares carried a load of 91½% of the market value of the underlying securities, or approximately 8.68% of the selling price of the shares. During the period of the offer the bid price of the shares of the original series ranged downward from \$3.05 to \$1.30. The premium allowed ranged from approximately 3.9% to 6% of the market price until March 15, 1932, and 6.33% from then until the expiration of the offer. The holders of

²² The reaction of one holder of the North American Trust Shares, 1956, to this exchange offer is contained in his letter dated June 10, 1938, to the sponsor (taken from the Commission's files) :

I have just received your circular of May 19, addressed to the holders of North American Trust Shares, 1956, and have given this matter due consideration.

I cannot see, if I understand the letter correctly, wherein I could benefit by making this change, even assuming that the prospective benefits of the new plan will all be realized.

I have 405 shares presumably worth at the present market price \$895. For this I am offered 267 shares worth \$741 plus a cash payment which I figure to be worth \$83, which is the differential mentioned in your letter; namely, \$20.50 per 100 shares would amount to \$83, making a total value that I would receive of about \$824. I would, therefore, sacrifice the difference between this amount and the present market value of my holdings of about \$71. In addition to this I would be sacrificing the dividend earned up to this time, almost a half year, which, according to the figures you quoted for 1937, should be about \$30.

It would, therefore, according to the above figures, cost me about \$100 for the privilege of changing from one company to the other, and it would. I am convinced, take many years before the benefits from this change would compensate for such a loss. The whole difficulty in the transaction, it seems to me, lies in the very great difference between the selling and buying price of these shares which, as I understand, is not a natural market difference but an arbitrary difference fixed by the members of these firms and which places, in my opinion, a burdensome charge on those who purchase these securities. They are like an automobile inasmuch as immediately they are purchased they become secondhand and suffer depreciation in value although they are just as good as before.

²³ Public Examination, Ross Beason & Co., Inc., Group, at 11290.

an aggregate of 9,037,740 shares of the original series, representing an approximate dollar value of \$26,891,000, exchanged their shares for shares of the Accumulative and/or the AA series.²⁴

2. EXCHANGE OF CORPORATE TRUST SHARES, ORIGINAL SERIES FOR ACCUMULATIVE SERIES (MODIFIED) AND SERIES AA (MODIFIED)

The sponsor, in urging investors to exchange their Corporate Trust Shares, Original Series for Corporate Trust Shares, Accumulative Series (Modified) and Series AA (Modified), pointed out that the compulsory elimination provision in the Original Series would cause the elimination of 10 companies, whereas in the later trusts eliminations were at the discretion of the depositor.

In a letter to holders of Corporate Trust Shares, Original Series, dated September 29, 1932, the depositor, after criticizing the provision for elimination in the trust agreement for that trust, stated:²⁵

It is our belief that it is in the best interests of holders of Corporate Trust Shares, Original Series, to exchange their shares for either Corporate Trust Shares, Accumulative Series (Modified), or Corporate Trust Shares, Series AA (Modified)—Distributive Type, which do not have the compulsory elimination feature of the Original Series * * *.

*Shareholders are, of course, under no obligation whatsoever to exchange their shares. However, we recommend the exchange because, in our opinion, shares of each of the new modified series offer definite advantages over shares of the Original Series * * *.*

* * * The necessity for prompt consideration should be borne in mind, however, since, as stated above, certificates must be received for exchange by The Chase National Bank of the City of New York not later than October 31, 1932, or before the prior termination of this exchange privilege by us in our sole discretion.

The offer of exchange, made on September 29, 1932, and extended to November 25, 1932,²⁶ offered for shares of the Original Series shares of Corporate Trust Shares, Accumulative Series (Modified), and/or Corporate Trust Shares, Series AA (Modified), modified forms of the shares involved in the original exchange offer. The holders of the trust shares of the Original Series were offered the new shares on a share for share basis.²⁷

During the period of the offer, the bid price of the shares of the Original Series averaged \$1.58 per share. the bid for Accumulative Series (Modified) and the AA Series (Modified) was \$1.59 for the same period. In view of the fact that the liquidating value of the shares of the Original Series was from 3 cents to 10 cents per share less than the bid price of the new shares at the time, such spread might be said to have constituted the premium allowed to sharehold-

²⁴ See replies to the Commission's questionnaire for Corporate Trust Shares, Original Series, Series AA and Accumulative Series; see also Public Examination, Ross Beason & Co., Inc. Group, Commission's Exhibit No. 1096 (as amended at 11290), and at 11259 et seq.

²⁵ Reply to the Commission's questionnaire for Corporate Trust Shares, Original Series, Exhibit V. [Italics in the letter.]

²⁶ Id., Exhibit W.

²⁷ Id., Exhibit V.

ers for exchanging the shares. The new shares carried a load of $9\frac{1}{2}\%$ of the market value of the underlying securities or approximately 8.68% of the selling price of the trust shares.

Based on the average figures, the spread would be an allowance to investors on the exchange of from approximately 1.9% to approximately 6.3%. The holders of an aggregate of 1,556,280 shares of Original Series, representing an approximate dollar value of \$2,740,000, exchanged their shares for shares of the Accumulative Series (Modified) and/or the AA Series (Modified).

3. EXCHANGE OF CORPORATE TRUST SHARES, ACCUMULATIVE SERIES AND SERIES AA INTO THE MODIFIED SERIES

On September 27, 1932, at about the same time that the offer to holders of shares of the Original Series to exchange into shares of the Accumulative Series (Modified) and/or the Series AA (Modified) was made, similar offers were made to the holders of the Accumulative Series²⁸ and the Series AA to make a corresponding exchange.²⁹ The premium allowed to shareholders was to offset the load. Holders of a total of 6,324,625 shares of the Accumulative Series and 5,189,700 shares of the Series AA accepted the offer.

4. EXCHANGE OF CORPORATE TRUST SHARES, ORIGINAL SERIES, FOR QUARTERLY INCOME SHARES, INC.

The third exchange offer, made on January 23, 1933,³⁰ and extended to February 28, 1935, offered an exchange of shares of the Original Series for shares of the capital stock of Quarterly Income Shares, Inc., a management type investment company organized by the same sponsors of the various issues of Corporate Trust Shares. The holders of the trust shares of the Original Series were not allowed a premium on their shares, but could purchase as many shares of stock of the management company as the proceeds of liquidation of their shares would purchase at the market price of the stock of the corporation, including a load of 8.68%. The holders of an aggregate of 318,330 trust shares of the Original Series representing a dollar value of approximately \$640,000 exchanged their shares.

5. EXCHANGE OF CORPORATE TRUST SHARES, ACCUMULATIVE SERIES (MODIFIED) AND SERIES AA (MODIFIED) FOR QUARTERLY INCOME SHARES, INC.

Within four months after the offer to exchange the Original Series into the Modified Series was made, the sponsor wrote to inves-

²⁸ Reply to the Commission's questionnaire for Corporate Trust Shares, Accumulative Series, Exhibit M.

²⁹ Reply to the Commission's questionnaire for Corporate Trust Shares, Series AA, Exhibit I.

³⁰ Reply to the Commission's questionnaire for Corporate Trust Shares, Original Series, Exhibit X.

tors on January 23, 1933, that seven companies in the portfolio were not paying dividends and stated:³¹

You recently exchanged your Corporate Trust Shares (Original Series) for Corporate Trust Shares (Modified) * * *.

It has come to our attention * * * that many holders of Corporate Trust Shares (Modified) are being importuned to trade their shares for other securities, with particular stress being laid on the matter of income. Very often such trades represent an economic waste which should and can be avoided.

If income is not of great importance to you, we urge you to retain your Corporate Trust Shares. If, however, the income feature is causing you to consider the transfer of this investment to some other security, we suggest that you consider Quarterly Income Shares, which are under the same sponsorship as your present shares. This is not an offering of Quarterly Income Shares, and this letter and the enclosed circular are sent you as a holder of Corporate Trust Shares (Modified) merely as information.

6. EXCHANGE OF OTHER TRUSTS OF SPONSORS FOR QUARTERLY INCOME SHARES, INC.

Various other offers of exchange were made to holders of the Original Series, Accumulative Series and Series AA as originally issued and as modified to exchange their shares into Quarterly Income Shares, Inc. The total of these shares exchanged was 7,176,390 shares totaling \$15,138,000.

The net load on Quarterly Income Shares, Inc., was between 7.68% and 8.68% of the sales price. The following table shows the number of shares of each of the five trusts which were exchanged pursuant to these offers:

Name of trust:	Number of shares exchanged	Dollar value of shares exchanged
Original Series-----	318,330	\$640,000
Accumulative Series-----	673,595	1,274,000
Series AA-----	654,465	1,233,000
Accumulative Series (modified)-----	2,748,000	6,010,000
Series AA (modified)-----	2,782,000	5,981,000

In summary, a total of 29,284,735 shares of the Corporate trusts amounting approximately to \$44,769,000³² were exchanged and a net new loading of \$2,464,754 was charged investors who accepted the offers of exchange. Of the Original Series of Corporate Trust Shares brought out in 1929 of which a total of \$144,995,823 were sold to the public within a period of two years and six months with a promised duration of 25 years, only 4.8% were outstanding as of December 31, 1935, largely as the result of the numerous exchanges into shares of other trusts of the sponsor.

Table 46 is a summary of the exchanges offered by the sponsors of the various series of Corporate Trust Shares:

³¹ Reply to the Commission's questionnaire for Corporate Trust Shares, Accumulative Series (Modified), Exhibit F.

³² This figure does not include the dollar value of a total of 11,514,325 shares of Accumulative Series and Series AA which were exchanged for shares of Accumulative Series (Modified) and Series AA (Modified).

TABLE 46.—*Trusts sponsored by Ross Beason & Co., Inc. Group,^a—table of exchanges*

	Date of exchange offer	Number of shares exchanged	Dollar value of shares exchanged	Net load on new shares (in percentage)	Net loading charge (in dollars)
1. Original Series into Accumulative and/or AA Series.....	Nov. 19, 1931	9, 037, 740	\$26, 891, 000	4½	\$1, 254, 913
2. Original Series into Accumulative (modified) and AA (modified).....	Sept. 29, 1932	1, 556, 280	2, 740, 000	{ 2.38 to 6.78	{ 65, 212 to 185, 772
3. Original Series into Quarterly Income Shares, Inc.....	Jan. 23, 1933	318, 330	640, 000	8.68	55, 552
4. Accumulative and AA Series into Accumulative and AA Series (modified).....	Sept. 29, 1932	{ Acc. 6, 324, 625 AA 5, 189, 700 }	None	None	None.
5. Accumulative and AA Series into Quarterly Income Shares, Inc.....	Jan. 23, 1933	{ Acc. 673, 595 AA 654, 465 }	1, 274, 000 1, 233, 000	7.68 7.68	97, 843 94, 694
6. Accumulative Series (modified) and AA Series (modified) into Quarterly Income Shares, Inc..	Jan. 23, 1933	{ Acc. 2, 748, 000 AA 2, 782, 000 }	6, 010, 000 5, 981, 000	7.78 7.78	467, 578 458, 319
		29, 284, 735	44, 769, 000	-----	2, 554, 391

^a Public Examination, Ross Beason & Co., Inc., Group, at 11259 f, as amended at 11290, Commission's Exhibit No. 1096.

^b The mean load in exchange offer No. 2 is used as the figure for that offer.

NOTE.—The total is part of the total sales profits to depositors shown elsewhere. All figures are approximations based on figures submitted by depositors.

The experience of a hypothetical investor may be recited to illustrate the possible effects of these exchange offers on investors.

In November 1931 the sponsor recommended exchange of the original Corporate Trust Shares for the new Series AA or Accumulative Series, for which investors were required to pay a load of 4.67% of the offering price, the full load being 9.5%. In September 1932 an exchange of the Accumulative Series into Accumulative Series (Modified) shares was recommended, on which switching no load was charged. In January 1933 an exchange into the sponsor's open-end company, Quarterly Income Shares, Inc., was suggested, for which shift the investor was charged a load of 7.78%, the full load being 9.5%. Thus, an investor following all the sponsor's recommendations would have paid an original load of 7.5% on this purchase of Corporate Trust Shares, and an additional load of 12.45% of the value of the investment remaining in making the recommended shifts. If the value of the shares remained constant, the total load in making an investment in the last company would aggregate ultimately almost 20% of the offering price. This calculation includes only the loads. If other charges, including the charges made in connection with the computation in the offering prices, were also taken into account, the total cost to the investor would far exceed this 20%.

C. Exchanges Among Trusts of Super-Corporations of America Depositors, Inc.

The number of times and the extent to which publicly invested funds in fixed trusts can be turned over is also indicated by the history of exchanges of Super-Corporations of America Trust Shares. As in the case of other fixed trusts, the holders of these certificates had been importuned by sponsors and promoters of trusts to exchange their shares into those of some other trust.

1. EXCHANGE OF SUPER-CORPORATIONS OF AMERICA TRUST SHARES, SERIES A AND B FOR SERIES AA AND BB

The depositor, while still controlled by S. W. Straus & Co., Incorporated, had apparently made an offer to holders of Series A and B to exchange their shares into Series AA and BB. The offer appears to have been accepted by a large number of investors at that time.³³

2. EXCHANGE OF SUPER-CORPORATIONS OF AMERICA TRUST SHARES FOR SUPERVISED SHARES, INC.

During the period, also, that American Trustee Share Corporation controlled the depositor, from August 9, 1933, to October 25, 1935, an offer was made to holders of trust certificates to exchange their shares into those of Supervised Shares, Inc., sponsored by American Trustee Share Corporation. However, information as to the terms of the offer and as to the extent to which the offer was accepted is not available, except that the contract of sale for the stock of the depositor from the Manufacturers Trust Company to American Trustee Share Corporation, dated August 9, 1933, contemplated a campaign of exchanges, the buyer and seller to split the profits:³⁴

(c) The Buyer agrees that it will use its best efforts to cause an offer or offers to be made to holders of certificates for trust shares outstanding under the trust agreements hereinbefore mentioned (of the several Series collectively hereinafter sometimes called "Super-Corporations Trust Shares") to exchange the same for shares of the capital stock of Supervised Shares, Inc., a corporation organized and existing under the laws of the State of Delaware, and distributed by the Buyer, and/or for other trust shares or other securities distributed by the Buyer; and upon the making from time to time of any such exchange (each of which shall be conclusively presumed to have been accomplished by the Buyer), the Buyer shall pay to the Seller at the time and in the manner herein provided an amount equal to $\frac{1}{2}$ of 1% of the liquidating or conversion value of such Supervised Shares or other securities, as such liquidating or conversion value is defined and determined under and pursuant to the respective instruments under which the same are issued.

³³ See Ch. XI, *Realizing on Shares*, pp. 195, 197, *supra*.

³⁴ Supplementary information supplied the Commission for Diversified Trustee Shares, Original Series.

3. EXCHANGES OF SUPER-CORPORATIONS OF AMERICA TRUST SHARES FOR AMERICAN BUSINESS SHARES, INC.

In November 1935, two weeks after control of the depositor was purchased by Lord, Abbett & Company, Inc., from American Trustee Share Corporation, the depositor recommended that holders of trust shares of all series exchange their shares for stock of American Business Shares, Inc., sponsored by Lord, Abbett & Company, Inc. Again, the new sponsor under the contract for the purchase of the control of the depositor dated October 25, 1935, agreed to use its best efforts to effect exchanges. The net profits realized from sales, exchanges, or other security transactions resulting from liquidation of the trust funds were to be divided between the old and new sponsors. The contract provided further:³⁵

(11) If at least one million five hundred thousand (\$1,500,000) dollars in market value of certificates for said Trust Shares have not been liquidated within one year from the date of this Agreement, Seller shall have the right to notify Buyer that it is dissatisfied with performance hereunder and to demand the resale to it of the 5,000 shares of Super-Corporations of America Depositors, Inc., hereby conveyed and Buyer agrees to re-sell and re-deliver the same on demand at the price paid by it therefor, as provided in paragraph (6).

Andrew J. Lord, president of the purchaser, testified with reference to the exchanges of Super-Corporations of America Trust Shares as follows:³⁶

Q. Now, did you ever acquire any other trusts, investment trusts, or investment companies of either the fixed or management type?

A. Yes.

Q. What were the names of those companies?

A. We acquired the outstanding stock of the Depositor Company of Super-Corporations of America.

Q. And when did you acquire that?

A. As I recall, in November of 1935.

Q. And did you continue to sell Super-Corporations of America Trust Shares?

A. Oh, no.

Q. What did you do with them?

A. The purchase and the acquisition of the Depositor Company was to work for the liquidation of the trusts.

* * * * *

Q. So you acquired Super-Corporations of America Depositor Company, and you tried to get as many of these fixed-trust shareholders into your trust as possible?

A. Yes.

Q. Into both of your trusts, I take it.

A. Yes.

Q. And were you successful in doing that?

A. A considerable number of Super-Corporations' shareholders have exchanged for either or both of our trusts.

³⁵ Ibid.

³⁶ Public Examination, Affiliated Fund, Inc., at 18290-2.

Q. Did you exchange them on a preferred basis of any sort?

A. I think not.

Q. Just gave them a liquidating value, did you?

A. Approximately.

* * * * *

Q. How many of your shares would you say you sold to former holders of Super-Corporations through this exchange offer?

A. I would think about one million to one million and a quarter dollars.

The various offers of exchange made for shares of American Business Shares, Inc., were as follows (Table 47):

TABLE 47.—Offers of exchange of stock of American Business Shares, Inc., for each 100 Super-Corporations of America Trust Shares

	Series A	Series B	Series C	Series D	Series AA	Series BB
Date of first offer.....	11/6/35	11/6/35	11/6/35	11/6/35	11/6/35	11/6/35
Expiration.....	11/14/35	11/14/35	11/14/35	11/14/35	11/14/35	11/14/35
Date of second offer.....	11/23/35	11/23/35	11/23/35	11/23/35	11/23/35	11/23/35
Expiration.....	12/17/35	12/17/35	12/17/35	12/17/35	12/17/35	12/17/35
Date of third offer.....					1/24/36	
Expiration.....					2/14/36	
Number of American Business Shares, Inc. (first offer).....	300	320	580	580	210	210
Cash in addition.....	\$7.00	\$3.00	\$5.00	\$7.00	\$4.00	\$6.00
Dividend on American Business Shares, Inc. Dec. 1, 1935.....	\$6.00	\$6.40	\$11.60	\$11.60	\$4.20	\$4.20
Cost of Exchange to investor.....	\$21.00	\$23.00	\$50.00	\$50.00	\$16.00	\$16.00
Percent of value of shares on Nov. 30, 1935.....	5.6	5.8	6.9	6.9	6.1	6.1

The first offer was made on November 6, 1935, and expired on November 14, 1935. In connection with this offer, the depositor stated that the type of trust in question had outlived its usefulness, that less than 20% of the shares held by investors in 1933 were outstanding, and that the total assets were only a small fraction of the assets of two or three years previously. The depositor recommended transferring the investment immediately into a flexible management type of investment trust and that "*the affairs of this Corporation should be terminated as quickly as possible.*"³⁷ For these reasons, the depositor stated it made an arrangement to exchange Super-Corporations of America Trust Shares for stock of American Business Shares, Inc., sponsored by Lord, Abbett & Company, Inc.

The investor was also told in this letter that if shares were exchanged before November 14, 1935, he would be entitled to a quarterly distribution payable on December 1, 1935, to holders of stock of American Business Shares, Inc. It was pointed out that American Business Shares, Inc., was authorized by its charter to declare distributions from profits realized on purchases and sales of securities, as well as from dividends paid on the underlying securities, whereas distributions on Super-Corporations Trust Shares were governed entirely

³⁷ Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, Exhibit F. Italics in the letter.

by dividends paid on the underlying securities. The depositor stated further that, in its opinion, the higher distributions to investors were a distinct advantage. The expiration date of the offer was fixed as November 14, 1935, because it was stated that dividends on American Business Shares, Inc., were payable to holders of record as of November 15, 1935. The letter did not disclose the fact that the price at which the stock of American Business Shares, Inc., was sold in exchange for the fixed trust shares included the amount representing the dividends to be declared on the stock on November 15, 1935, such dividends being a return of capital to those investors.

A second offer was made on November 23, 1935. In connection with this offer, in which it was pointed out that 1,400 shareholders of the various series of Super-Corporations of America Trust Shares had made the exchange, the advantages to be derived from an exchange were again described in approximately the same terms. This second offer expired on December 17, 1936, and was on the same basis as the first offer with adjustments for intervening dividend payments on shares of American Business Shares, Inc. A third similar offer was made in the case of Series AA on January 24, 1936, which expired on February 14, 1936.

Table 48 shows the number of shares outstanding as of October 31, 1935, and the amount exchanged. However, comparatively little of the \$58,000,000 of public distribution of these trusts remained to be exchanged because the investors had been subjected to previous offers of exchanges.

TABLE 48.—*Exchange of Super-Corporations of America Trust Shares for shares of American Business Shares, Inc.*

Series	Number of shares out- standing Oct. 31, 1935 ^a	Number of shares ex- changed	Amount ex- changed to Dec. 17, 1935	Percent of total number of shares out- standing ex- changed
A.....	180,000	31,620	\$120,523.80	17.6
B.....	113,000	17,025	68,429.07	15.1
C.....	^b 39,500	4,375	31,797.76	11.1
D.....	^b 58,500	7,865	57,378.29	13.4
AA.....	^b 597,000	89,950	238,658.96	15.1
BB.....	^b 351,000	52,350	140,106.54	14.9
Total.....	1,339,000	203,185	656,894.42	-----

^a The value of the shares outstanding on Oct. 31, 1935 is not available.

^b Sept. 30, 1935.

It appears from this table that, of the small amount of shares of the six series outstanding in the last quarter of 1935, compared to total sales, a further reduction was effected by the offer of exchange of Lord, Abbett & Company, Inc., ranging from 13% to 17% of the various series. The total amount exchanged, \$656,894.42, represented, in effect, original sales of shares of American Business Shares, Inc.

The exchange offers were based on the offering price of shares of American Business Shares, Inc. (including a premium of 9½% of net asset value), and the liquidating value of Super-Corporations of

America Trust Shares, at the time the offers were made. Subsequent price fluctuations resulted in minor increases or decreases of the loading. In addition to the published load of $9\frac{1}{2}\%$ on American Business Shares, Inc., Lord, Abbett & Company, Inc., received a fee of $\frac{1}{2}$ of 1% per annum upon the net assets of American Business Shares, Inc., payable at the rate of $\frac{1}{24}$ of 1% per month on the net assets for such period.

No substantial over-the-counter market existed for stock of American Business Shares, Inc., in 1935. However, the wholesale distributor, Lord, Abbett & Company, Inc., although not obligated to do so, maintained a bid for stock of American Business Shares, Inc., at approximately the liquidating value of the shares for the convenience of shareholders. American Business Shares, Inc., was an open-end management investment company. Its charter, therefore, required the company to maintain a market for the open-end company shares to the extent that the Corporation had net assets legally available for the purpose based on closing market prices on the day following the tender, less a handling charge not to exceed 2% . Such handling charge had been fixed by the board of directors at $\frac{1}{2}$ of 1% .³⁸

An accurate computation of the profit or loss to investors upon the exchanges cannot be made in the absence of information as to the average cost of shares exchanged, average yields and the average period shares were outstanding prior to the exchange. However, the cost to investors who purchased Super-Corporations of America Trust Shares at the inception of the trusts and who made the exchange on November 6, 1935, is set out in a preceding table in which bid prices are used for Super-Corporations of America Trust Shares instead of liquidating values which may have been slightly different, but which are not available.

An example of the experience of an investor who exchanged his Series A would be as follows:

As of November 6, 1935, the bid price of shares of Super-Corporations of America Trust Shares, Series A, was \$3.73 per share and that of stock of American Business Shares, Inc., was \$1.15 per share. On the basis of these quotations, the owner of 100 shares of Super-Corporations of America Trust Shares, Series A, which had a liquidating value of approximately \$373, would receive 300 shares of American Business Shares, Inc., which had a liquidating value of approximately \$345, and \$7 in cash, or a total of \$352. Thus, the cost of such an exchange was \$21, or 5.6% of the value of his Super-Corporations of America Trust Shares, Series A, on November 6, 1935, and 1.9% of the original offering price of \$1,087.50 on May 2, 1930.

It is apparent that the holders of Super-Corporations of America Trust Shares were considered a potential backlog of sales prospects to be reached through the medium of exchanges. The following is presumably the investment history of the typical holder of these shares: The investor purchased Super-Corporations of America Trust Shares, Series A, in the latter part of 1930, and paid a load in excess of $7\frac{1}{2}\%$ therefor. He exchanged his holdings in July 1932 into Series AA at the solicitation of the depositor and paid some addi-

³⁸ Reply to the Commission's questionnaire for American Business Shares, Inc., Item 81.

tional loading therefor. In the latter part of 1933, he exchanged his shares into Supervised Shares, Inc., again at the solicitation of the depositor, control of which in the intervening period had changed and the new sponsor of which then had another trust to sell and made a new exchange offer. To effect this exchange, the investor again paid an additional loading charge. Or, if he resisted the previous offer of exchange, the investor in the latter part of 1935 exchanged his shares for stock of American Business Shares, Inc., at the solicitation of the depositor, control of which had again changed.

The depositor, having exhausted the possibilities of exchanges by this time (Series A had decreased from a total of \$29,790,261 to \$675,450 on October 31, 1935), and having continuing expenses, evidently desired to step out of the picture as quickly as possible. In the offer of exchange, dated November 23, 1935, the depositor, after indicating that the exchange was not compulsory, stated:³⁹

It is our opinion, however, that it would be in the best interest of all concerned if the affairs of the Depositor Corporation were terminated as quickly as possible. If the Trusts themselves are terminated, due notice will be given to the remaining shareholders by the Trustee * * *.

By making the exchange at this time, you are protected against such contingency by being given an opportunity to continue to share in the revival of American business.

D. Exchanges Among Trusts of Transcontinent Shares Corporation

Two offers of exchange were made in connection with the trusts of Transcontinent Shares Corporation, formerly Bank and Insurance Shares, Inc.⁴⁰

1. OFFER TO EXCHANGE DEPOSITED BANK SHARES, N. Y., SERIES A FOR SERIES B-1

The first offer of exchange was made by the depositor sometime in December 1931, and contemplated the exchange of shares of Deposited Bank Shares, Series B-1, into shares of Deposited Bank Shares, N. Y., Series A. Not only was no premium allowed to the holders of the old shares on the exchanges, but the price paid the holders of the shares of Series B-1 ranged from "10% to approximately 20%" less than the liquidating value thereof. The load on the shares of the Series A was stated to be 8%. The holders of 33,000 shares, representing the amount of \$101,000, were reported to have exchanged their shares.⁴¹ The profit to the depositor on these exchanges apparently ranged from 18% to 28%.

As the offer was in effect from December 1931 to December 31, 1935, no over-all computation of the experience of investors with respect to

³⁹ Reply to the Commission's questionnaire for Super-Corporations of America Trust Shares, Series A, Exhibit I.

⁴⁰ Reply to the Commission's questionnaire for Deposited Bank Shares, Series B-1, Item 30.

⁴¹ Reply to the Commission's questionnaire for Deposited Bank Shares, Series B-1, Item 30. See p. 212, *supra*.

the exchanges may be here made on a per-share basis. The experience of the investor who made the exchanges, however, may be compared as follows:

An investor who purchased shares of Series B-1 when offered on January 21, 1929, paid \$17.25 per share. If he accepted the offer when it was first made, he received $\$3\frac{1}{8}$ for his share, thus suffering a net depreciation of \$14.13 per share, or approximately 82%. He would have received \$1.75 in distribution on his Series B-1 while he held these shares, amounting to approximately 10.15% of his original purchase price. In accepting his Series A shares the investor paid a load of 8%. From the time he acquired his Series A shares until December 31, 1935, the shares depreciated 5%, but he would have received a total of \$0.54 in distributions or 3.1% of his original purchase price. Series B-1, on the other hand, showed a net appreciation from December 1931 to December 31, 1935, of approximately 4.0% and distributions amounted to about \$1.64 or 9.5% of the original purchase price.

Thus, on the basis of \$100 invested the investor who bought Series B-1 when first issued, accepted the exchange offer when first made, and held his shares of Series A to December 31, 1935, would have had a net value preserved or received of \$28.91 at the end of the period, or a loss of approximately 71.1%. On the other hand, an investor who invested \$100 in the Series B-1 when first offered and retained them to December 31, 1935, would have had a net value received or preserved of \$46.48, at the end of the period, a loss of only 62%. An investor, however, who had placed his \$100 in a mutual savings bank on January 21, 1929 (offering date of Series B-1), at 3% interest compounded semiannually would have had \$123.00 received or preserved at December 31, 1935.

2. OFFER TO EXCHANGE DEPOSITED BANK SHARES, N. Y., SERIES A FOR SERIES N. Y.

The second offer of exchange was made by the depositor some time in December 1931, and contemplated the exchange of shares of Deposited Bank Shares, Series N. Y., into shares of Deposited Bank Shares, N. Y., Series A. In some cases, the holders of the Series N. Y. were allowed liquidating value and in some cases a premium was apparently allowed. However, in still other cases a price of 50 cents per share less than the liquidating value was allowed the holders of the shares of Series N. Y. The holders of approximately 104,000 shares of the Series N. Y. representing a dollar value of approximately \$290,000, or about 80% of all shares outstanding at the end of 1931, were reported to have exchanged their shares on one or another of the above bases for shares of Deposited Bank Shares, N. Y., Series A.⁴²

Without setting forth the computation, as in the case of the previous offer, it may be stated that on the basis of \$100 invested on September 1, 1929, the investor who retained his shares of the Series N. Y. to December 31, 1935, would have had a value received or preserved of \$29.10. The investor who accepted the exchange offer when first made would have had \$22.84 at the end of the same period,

⁴² Reply to the Commission's questionnaire for Deposited Bank Shares, Series N. Y., Item 30.

but the investor who placed his money in a savings bank at 3% interest compounded semi-annually would have had \$117.20 at December 31, 1935. This computation is made on the basis of exchange at the liquidating value.

IV. OFFERS OF EXCHANGE BY COMPETITORS

Just as sponsors effected changes with holders of certificates on bringing out new series of trusts, so also competitors effected exchanges with holders of certificates for shares of their respective trusts. Hugh Bullock commented on the practice in discussing the number of fixed trust shares of other sponsors held in the portfolio of Nation-Wide Securities Company (Maryland), a management investment company sponsored by Calvin Bullock. These fixed trust shares in the portfolio had evidently been acquired by Nation-Wide Securities Company in exchange for the capital stock of that investment company. Mr. Bullock testified:⁴³

Q. Now, I also notice that there is a Five-Year Fixed Trust Shares; and Fixed Trust Shares; Fundamental Trust Shares; Independence Trust Shares; and Nation-Wide Securities B; that is another one of your trusts?

A. That is our unit trust.

* * * * *

Q. National Trust Shares; and North American Trust Shares; and Standard American Trust Shares; Super-Corporation of America; Trust Shares of America, Trustees—what is that, Standard Investment?

A. I believe so. They have some nickname that I have forgotten.

Q. Trustee Standard Oil Shares; and USELPS A, and B, and they are both your own trusts.

A. Yes.

Q. USELPS B, 26,000 shares were purchased during the year 1934.

A. Yes.

Q. So that insofar as this list is concerned, this has probably intensified the competition as far as the other sponsors of trust shares were concerned, when they saw a list like that, and saw that their investors were being switched out into your shares, it would upset them a bit, would it not?

A. Of course, I don't know what the effect was. I suspect that a good many of our shares appeared in other portfolios, that had some provision of this nature, by way of a preferential bid.

I should say this, from memory, that the amount of anyone else's trust shares that flowed into Nation-Wide was a very tiny fraction of the amount of some of our own shares that flowed through other people's portfolios.

Q. Tell me this: How many of these companies would you say had been active on trading your investors out of your shares?

A. I would say, from experience, probably all of them.

Q. All of them?

A. Yes, I won't say that all had this preferential bid, but they tried to get other people's clients, obviously, the way the securities business is done.

Q. Would you characterize this in part as retaliatory?

A. No; in no fashion. I definitely characterize it as an element for self-protection.

⁴³ Public Examination, Calvin Bullock Trusts, at 4176-8.

Q. As a defensive method?

A. Yes.

Q. Did you ever do this in any other companies?

A. No.

Q. You didn't ever have to, if it was a defensive method, did you?

A. It might have been helpful, as a defensive method in some of our other companies. It was a feature a bit unusual to trusts, as we understand them. You will have to take my word for this, but it was really done through pressure from dealers rather than any move initiated by our own selves.

We were just as glad not to have it in our other trusts.

The competitor frequently maintained a preferential bid for certain trusts. Hugh Bullock testified on this practice as follows:⁴⁴

Q. Now, supposing you just give a specific definition of this preferential bid for the record, or just how it operated.

A. We would pay in terms of the asked price of Nation-Wide Voting Shares, the last sale price of securities contained in portfolios of other trusts, with a self-liquidating feature that likewise was contained in the Nation-Wide portfolio, but the bid price, deducting commissions, for any shares contained in other trusts that could not be used in Nation-Wide.

Our net price, of course, was an addition of these various elements that I have just mentioned.

Q. So that you did have an eligible list, and noneligible list, and on the eligible list you maintained a slightly higher bid than the liquidating value?

A. An eligible list of general market securities, or an eligible list of other investment trust companies that we would bother to take their shares in.

Q. An eligible list of other investment trusts that were eligible for you to purchase?

A. We did have such a list, not published, that I remember, but perhaps we kept tabulations of fifteen or twenty at any given time, and different investment trust shares, with what they were worth to us, and it was a terrific nuisance to figure out each night the prices that we would be willing to pay for such shares.

Q. And the price would be what, the market plus commissions?

A. The market would be just what I explained, a price that represented, when all of these factors were added up, the useful value to us of the stocks in these other portfolios, excluding commissions, but the bid price of general market securities in the other portfolios, deducting commissions.

That is, namely, that latter point the stocks that we would have to dispose of immediately we got them.

Just to conclude my part of this, it was a very minor element in the operation and growth of Nation-Wide, and it was more nuisance than it was worth and we were glad to discontinue it.

Exchanging fixed trust shares for shares of other investment companies became a business in itself. N. Peter Rathvon⁴⁵ organized Interstate Distributors, Inc., and agreed with Atlas Corporation on July 5, 1932, to "undertake to arrange exchanges of shares" of Atlas Corporation common stock "for shares of certain fixed Investment Trusts" acceptable to Atlas Corporation. The procedure of Interstate

⁴⁴ Public Examination, Calvin Bullock Trusts, at 4179-81.

⁴⁵ Mr. Rathvon subsequently became president of Pacific Eastern Corporation (formerly The Goldman Sachs Trading Corporation).

Distributors, Inc., was to sell fixed trust shares for the account of its clients and use the funds so derived to purchase Atlas Corporation common stock for such clients. Interstate Distributors, Inc., purchased a total of 5,928 shares of Atlas Corporation common stock for a total price of \$37,745.62.⁴⁶

These campaigns for exchanging trust shares shortly after they were sold emphasizes the predominance of the merchandising character of the fixed trust movement in this country. Switching of investors from one trust into another with additional loadings charged on each exchange; persuasion of investors who were slow to exchange shares by the pressure of threatened termination of the trusts; the statements to investors that they were under no obligation to make an exchange coupled, however, with warnings of possible pecuniary loss to the investor if the exchange were not made or promises of certain benefits if the exchanges were made; and the sale of control of depositor corporations with prices therefor contingent on the success of the purchaser in exchanging investors out of their shares, indicate the practices which can be used when the principal motive of sponsors is securing the maximum profits before the investment vehicle is dropped.

⁴⁶ Public Examination, Atlas Corporation, Commission's Exhibit No. 2002, at 59, and Commission's Exhibit No. 1965.

Chapter XIII

EXPERIENCE OF INVESTORS

I. EXPERIENCE OF INVESTORS IN FIXED TRUSTS

The picture presented by the experience of investors in fixed trusts from January 1, 1927, to December 31, 1935, is one of heavy losses.¹ Total public investment in 110 trusts studied was approximately \$863,000,000. As of December 31, 1935, the market value of assets of these fixed trusts was \$157,760,000.

Table 49 indicates the experience of investors in these 110 fixed trusts, from the period of their inception to December 31, 1935, and accounts for the difference between the amount invested by and amount available to investors in these trusts.

TABLE 49.—*Experience of investors in 110 fixed trusts*

1. Approximate cost to investors of shares purchased-----	\$862, 962, 062
2. Estimated amount received by investors on repurchases and conversions -----	342, 570, 104
3. Distributions to investors up to Dec. 31, 1935:	
(a) Estimated cash income-----	\$58, 000, 000
(b) Estimated capital return-----	73, 239, 925
	<hr/> 131, 239, 925
4. Value of shares outstanding, Dec. 31, 1935-----	157, 760, 421
5. Estimated loss at Dec. 31, 1935 (1-[2+3b+4])-----	289, 391, 612
	<hr/> 862, 962, 062

The loss of \$289,391,612 suffered by investors in these 110 fixed trusts was approximately 33.7% of the total sales of shares of these trusts of \$862,962,062.²

¹ Since the original questionnaire and summary statements covered the period beginning January 1, 1927, and ending December 31, 1935, that period has been used as a basis for the survey of investors' experience. This basis was deemed justifiable in view of the fact that there has been a steady decline in number of trusts, number of shares outstanding, and assets since 1933; that sales had practically ceased by the end of 1935, except to installment investment plans, and that therefore figures for the period following December 31, 1935, would present merely a further demonstration of the trend reflected by the results for the period 1927-1935. In these circumstances it was not deemed desirable to impose on the industry the expense and labor necessary to prepare data for the Commission for the period after December 31, 1935.

In addition, the analysis is subject to the qualification that information was not available from all the fixed trusts which were at one time or another in existence.

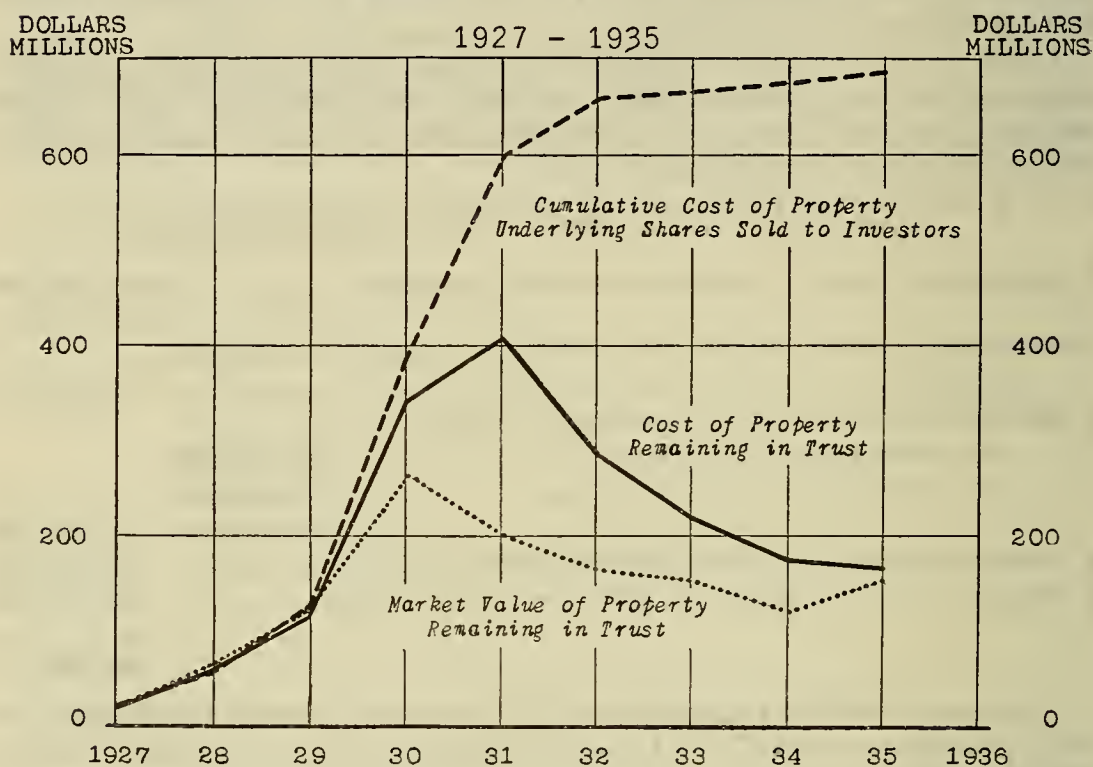
² As of December 31, 1935, 102 of the total of 241 fixed trusts had disappeared or were inactive. For a discussion of performance of fixed investment trusts, see Report on Investment Trusts and Investment Companies, Pt. Two, Ch. VI, Sec. VI at 492 and Pt. Two, Appendix J, Sec. V, at 906.

If this experience be projected over the entire list of fixed trusts of which the Commission has some record, investors as a whole suffered a loss of \$302,000,000 on their total investment of \$900,000,000 in fixed trust shares during the period 1927 to the end of 1935. During the same period the sponsors made a gross profit in excess of \$90,000,000.

Chart IX shows the cumulative cost of the underlying property of shares sold to the public (excluding loading charges) and the cost of property remaining in the trust.

CHART IX

CUMULATIVE COST OF PROPERTY
AND COST AND MARKET VALUES OF PROPERTY REMAINING IN TRUST
AT YEAR-ENDS FOR 44 FIXED TRUSTS



The small loss, \$332,976, for the group of trusts sponsored by Transcontinent Shares Corporation may be due to the fact that redemption of shares was relatively small and consequently there was a larger number of shares outstanding to increase in value with the general recovery of the market. The large loss, relatively, \$20,-202,431, or 34% of total sales, indicated for Super-Corporations of America Trust Shares, arises by reason of the fact that these trusts were liquidated to a large extent at a low point in the market. In the case of some of the smaller trusts, losses were very great. Total sales for American Investment Trust Shares, created January 1, 1930, and liquidated June 30, 1935, were \$743,056 and losses as of the liquidating date were \$293,119 or approximately 40% of total sales. The small number of trusts that showed a profit as of December 31, 1935, were either organized at an early period, 1928 or earlier, or were organized at a low point in the market after the market decline, 1932 or later.

Table 50, representing the total cost of property deposited with the trustees for the six larger groups, indicates that the fixed trust movement was a campaign of only approximately three years' duration (1929-1931) and that much of the activity since these years has been in exchanges.³

II. ELEMENTS OF COST OF INVESTMENT TO INVESTOR

Various elements must be considered in determining the cost to the investor for the privilege of participating in fixed trusts. This cost is exclusive of the losses which the shareholder might have sustained after the acquisition of his interest, by virtue of the decline in the market prices of the underlying securities. These elements include:

- a. Advertised or published loading charge.
- b. Hidden charges in the offering price, such as:
 - (1) Odd-lot differentials and odd-lot minimum commissions.
 - (2) Computation of percentage load on odd-lot differentials and odd lot minimum commissions.
 - (3) Computation of percentage load on accumulations and reserve funds.
 - (4) Valuation of base price of trust shares on basis of asked prices of underlying securities.
 - (5) Increasing base price of trust shares by upward adjustment of prices of underlying securities to next even figure.
 - (6) Adjustment upward of offering price of trust shares to higher fraction of a dollar.
- c. Dilution of the shareholder's equity by virtue of the riskless trading by sponsors, depositors and dealers in the trust shares, i. e., confirming orders to the public at one price and taking down trust shares to fill these orders from trusts at lower prices.
- d. Charges for "management" of portfolios in addition to loading charges.
- e. Trustees' fees.⁴
- f. Losses on realizing on shares, for example, from bids by depositors below liquidating value of trust shares.
- g. Cost to certificate holders on exchanges of fixed trust shares by virtue of the imposition of new loading charge on new trust shares.
- h. Cost on premature termination of trusts by virtue of failure of depositor to remit to investors those portions of fees and expenses allocable to the remainder of life of trust.
- i. Payment of interest on trust funds to the depositor or otherwise than to the certificate holders.

³ See Ch. XII, Exchanges of Trust Shares, *supra*.

⁴ It might be assumed that the principal element of cost to the investor in a fixed trust would be the trustees' fees. However, this item of cost was a very small part of the total cost, since trustees did not really perform any active trustees' service but rather acted in the capacity of a custodian or depository. The fees, therefore, were considerably less than would have been the case had the trustee had active discretionary duties. For example, as to the trusts sponsored by Distributors Group, Incorporated, although the gross profit to the sponsors, including dealers' commissions, was \$25,104,394, the trustees' fees for the same period were only \$1,018,000. The cost to the investor on the redemption of his share by the trustee consisted of two items: (a) the actual cost of liquidating the underlying property and (b) the service charge by the trustee.

TABLE 50.—Approximate cost of property deposited with trustee for 44 fixed trusts submitting data in response to questionnaire, by quarters, 1927-35

Year	Quarter	American Trustee Share Corporation (4 trusts)	Calvin Bullock (4 trusts)	American Depositor Corporation (9 trusts)	Transcontinental Shares Corporation (4 trusts)	Distributors Group, Inc. (6 trusts)	Super-Corporations of America Depositors, Inc. (6 trusts)	11 Ungrouped trusts ^a	Total 44 trusts	Cumulative cost of deposited property
1927	First	\$770,000	\$255,258						\$1,025,258	\$1,025,258
	Second	1,819,000	1,232,562						3,051,562	4,076,820
	Third	3,180,060	2,365,334	\$955,126					6,500,520	10,577,340
	Fourth	1,646,453	5,884,918	1,588,096					9,119,467	19,696,807
1928	First	1,382,158	8,935,129	1,748,119					12,065,406	31,762,213
	Second	1,825,169	8,579,978	1,645,068					12,050,215	43,812,428
	Third	2,684,610	2,682,512	1,699,866					7,066,988	50,879,416
	Fourth	3,047,609	1,240,255	1,608,276					5,896,140	56,775,556
1929	First	3,518,541	202,224	1,508,498	\$1,274,567	\$5,600,000			12,103,830	68,879,386
	Second	1,242,570	624,282	3,040,326	548,924	9,400,000			14,856,102	83,735,488
	Third	1,018,249	791,320	5,030,908	397,610	11,000,000			18,233,087	101,973,375
	Fourth	6,326,210	1,058,196	6,089,241	424,436	10,202,260			24,100,343	126,073,918
1930	First	4,914,360	5,900,571	11,572,785	917,193	21,797,740			45,102,649	171,176,567
	Second	6,152,300	8,343,411	32,427,373	721,529	21,627,491	\$7,161,309	\$80,670	76,514,083	247,690,650
	Third	2,031,745	5,815,947	23,299,595	890,159	25,818,384	8,804,637	235,631	66,895,098	314,586,748
	Fourth	5,585,263	8,125,326	25,472,015	1,082,011	23,358,701	9,254,884	2,484,566	75,362,766	389,949,514
1931	First	5,990,028	9,197,499	22,685,384	739,437	25,323,369	8,908,709	10,054,367	82,898,793	472,848,307
	Second	3,296,067	8,897,411	9,415,894	957,969	7,796,639	4,907,322	5,972,304	41,243,506	514,091,813
	Third	1,706,575	5,820,691	3,136,766	1,081,756	5,131,147	2,432,663	3,722,666	23,032,264	537,124,077
	Fourth	962,562	4,944,329	23,766,941	585,640	26,843,028	2,123,665	3,243,229	62,469,394	599,593,471
1932	First	915,554	3,168,296	4,828,635	533,667	9,152,963	640,913	1,546,672	20,786,700	620,380,171
	Second	1,158,732	1,040,867	3,920,980	351,203	9,094,940	588,266	853,645	17,008,633	637,388,804
	Third	1,597,012		604,090	975,586	3,244,981	6,295,326	760,419	13,477,414	650,866,218
	Fourth	521,080		2,289,336	832,455	1,095,816	742,095	327,979	5,808,761	656,674,979
1933	First	250,754			711,904	1,091,319		90,566	2,144,543	658,819,522
	Second	83,113			1,325,474	720,172		719,865	2,848,624	661,668,146
	Third	62,612			645,251	647,146		155,122	1,510,131	663,178,277
	Fourth	205,175			360,025	1,248,989		31,077	1,845,266	665,023,543

j. Failure to reduce loading charges as termination of trust approached.

k. Profits to sponsors from sale of distributions not remitted to certificate holders.

l. Fees and charges for conversion.

m. Decrease of price of trust shares by depositors on conversion through use of bid prices of underlying securities for purpose of determining base conversion value.

With reference to the cost to investors for their comparatively short term investment, Hugh Bullock testified:⁵

Q. Now, out of the fixed trusts, of which \$135,000,000 were sold to the public, between 1927 and 1932, or nearly \$135,000,000—and I think it is \$132,000,000—at the end of 1932 apparently only \$16,000,000 were outstanding.

A. I believe so.

Q. And that would again show the great turn over in those fixed shares, wouldn't it?

A. It is an indication of that.

Q. While the loading charges for this period were \$10,500,000, which would indicate that they paid the public, from a social point of view, quite a substantial load in order to have their money invested in these shares.

I am not saying the increase was due to anybody's fault, but that is the fact.

A. What figure are you relating your ten million to?

Q. I am relating it to the fact that the public had invested in these fixed trust shares \$135,000,000, and at the end of five years only had \$16,000,000 invested. It doesn't mean that that was lost; a lot of that has been paid back. But for the opportunity of having that investment, they had to pay \$10,500,000.

A. For the opportunity of having an investment of \$135,000,000, they did.

Q. Yes. But only for that period of time, for five years.

A. Which was absolutely voluntary on their part.

III. DISTRIBUTION OF CAPITAL

Periodic distributions by the fixed trusts to their shareholders came from two sources, income to the trust and return of capital. Income arose from ordinary income to the trust from regular or extra cash dividends on the underlying securities, and interest on funds on deposit and portfolio securities.

Capital distributions arose from the reserve fund, if any, paid in by investors in cash at the time of the purchase of shares which was included in the purchase price; the equalization payments advanced by investors at the time of the purchase of shares to place each investor in the same relative position with regard to distributable funds; and the proceeds of the sale of rights, split-ups, certain stock dividends and other property, and of shares eliminated under the terms of the trust agreements.

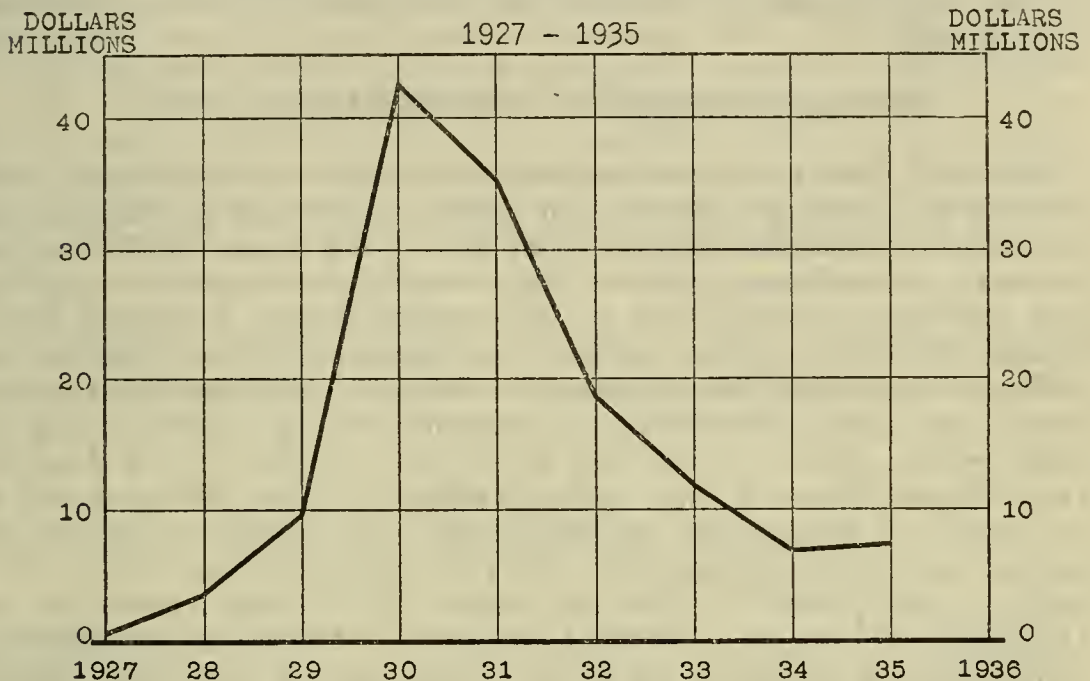
The receipts reported by trustees of 48 fixed trusts for which shares in excess of \$500,000 had been sold to the public is indicated in Chart X. The rapid decrease in total receipts beginning in 1930 is due to the almost complete discontinuance of distributions on the

⁵ Public Examination, Calvin Bullock Trusts, at 4202-3.

underlying securities in the form of rights, split-ups of shares, and stock dividends which were sold and distributed to the fixed trust certificate holders by trustees under the terms of many trust agreements.⁶

CHART X

GROSS RECEIPTS OF 48 FIXED AND SEMIFIXED TRUSTS



The total gross receipts received by a total of 48 trusts from 1927 to 1935 were \$136,524,403. Of this amount, only \$60,774,859 was represented by interest and cash dividends. Equalization payments by investors to equalize accumulations were \$26,735,943. Transferred from reserve funds, also paid in by investors, to equalize periodic distributions was \$15,680,627. The balance, therefore, of \$33,333,154, or approximately 25%, arose as the result of the sale of stock dividends, rights, and split-ups on the underlying securities. In other words, out of total gross receipts of \$136,524,403 approximately \$75,749,544, or 55%, represented capital either contributed to the trusts by the investor or distributed to the trusts by the underlying corporations.

In particular groups of trusts, the percentage of capital involved in periodic distributions was even larger. For example in the trusts sponsored by American Depositor Corporation, total receipts were \$36,499,562; cash dividends and interest totaled \$12,838,382; capital originally contributed by the investor or distributed to the trust by the underlying companies was therefore \$23,661,180 or 64% of all receipts.

The fixed trusts sponsored by Distributors Group, Incorporated, presented a similar picture. Gross receipts were \$53,092,748; cash dividends and interest received amounted to \$18,638,001; and capital

⁶ Appendix R contains a detailed break-down of the combined income and distribution accounts for 48 fixed trusts which had total assets of \$500,000.

contributed by investors themselves or by capital distributions of the underlying corporations was therefore \$34,454,747 or 64%.

In the simple distributive type of trust the amount of capital returned to investors in periodic distributions was comparatively large. For example, of total receipts for North American Trust Shares, 1953, of \$39,991,835, cash dividends and interest amounted to \$9,341,539 for the period 1929-1935, so that \$30,650,296, or 76.6% came from the capital contributed by investors or distributed by the underlying corporations.

IV. CONVERSIONS AND REPURCHASES

Although fixed trusts were set up and sold on the basis of a term of 20 or 25 years, a substantial number of investors terminated the trust as to themselves within a very few years, either by selling the shares or surrendering them to the trustee for conversion.⁷ As has been previously pointed out in the case of North American Trust Shares, 1953, first publicly offered in February 1929 and sold to the public in the amount of \$184,891,572, 92.9% of the number of shares issued had been converted by investors or the depositor up to December 31, 1935. In the case of Super-Corporations of America Trust Shares, Series A, first publicly offered in May 1930 and sold to the public in the amount of \$29,790,261, the number of shares redeemed was 95.3% of those sold as of October 31, 1935. Of the total public participation in the six series of Super-Corporations of America Trust Shares of \$58,353,113, 91.5% of the number of shares sold have been redeemed up to the latter part of 1935, and further redemptions have taken place since. As stated previously in connection with these trusts, the sponsor recommended to shareholders termination of the depositor itself "as quickly as possible."⁸

Although the number of shares outstanding declined over 90% in some trusts from the time of their inception to December 31, 1935, the values realized by investors on their shares did not nearly approximate 90% of their investment. For example, in Super-Corporations of America Trust Shares, investors paid in \$58,353,113 and received, on redeeming through the trustee 91.5% of the number of shares purchased, only \$27,060,976, or less than 50% of the amount invested.

Computation for 44 trusts (including 33 sponsored by the six leading sponsors) shows the investors paid in \$831,208,853 and received for the shares redeemed or repurchased by the distributors a total of \$324,897,269.

The losses sustained by investors in realizing on their trust shares was large because most of the original sales of trust shares were made from 1929 to the early part of 1931 and most of the realizing was effected at the subsequent low points in the market. Part of the loss is also attributable to the fact that a large number of the investors realized on the shares by selling to the sponsor or distributor at the bid price, which was frequently below the market value of the property underlying the shares. In some cases, for example, Na-

⁷ See Ch. XI, Realizing on Shares, *supra*.

⁸ See Ch. XII, Exchanges of Trust Shares, pp. 223, 226, *supra*.

tional Trust Shares⁹ and Deposited Bank Shares, Series B-1, the sponsor after the period of active selling withdrew the bid entirely.¹⁰

V. MARKET VALUE OF ASSETS OF TRUSTS

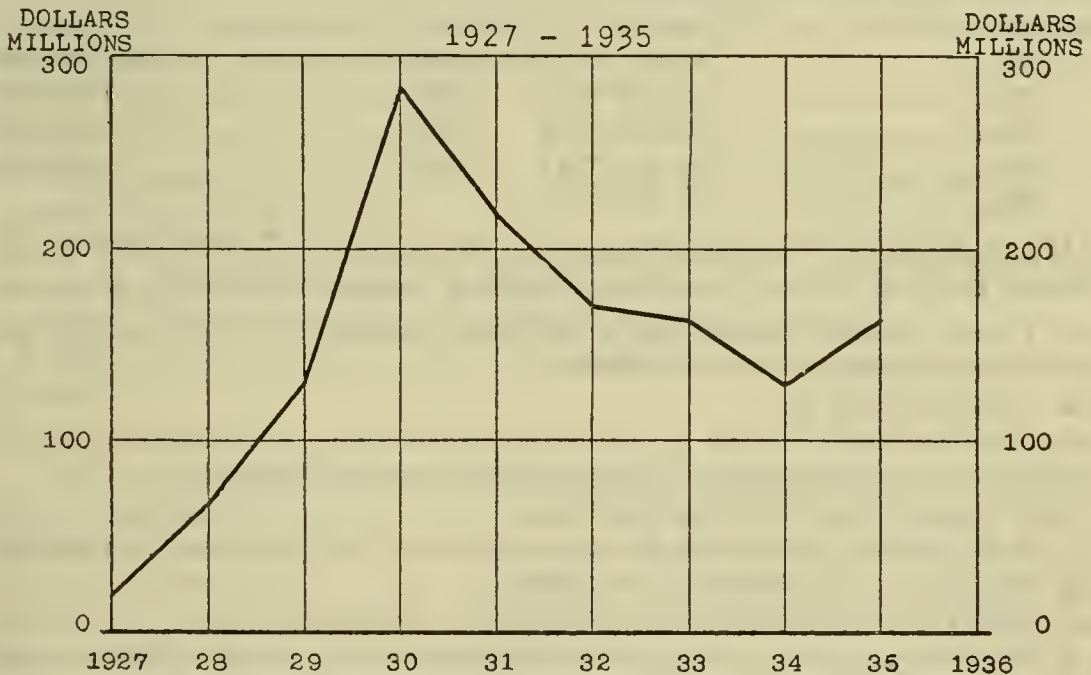
An examination of the total assets of fixed trusts for which information is available shows that the peak was reached in 1930 and a substantial decrease followed from then on until 1934. Of 49 fixed trusts examined, total assets at market value were \$284,659,113 in 1930, declined to \$127,428,506 in 1934, and increased to \$151,248,698 in 1935, this increase in value being due to market appreciation, since the number of fixed trust shares outstanding in that year declined.

The market value of assets declined more rapidly than the general market declined and has recovered more slowly than has the general market. The reason for this difference is, as pointed out above in this chapter, that a considerable portion of the assets were paid out as distributions to shareholders.

Chart XI shows the market value of the assets of 49 trusts studied at year-ends, including, besides those sponsored by the six leading sponsors, 16 trusts of miscellaneous sponsorship.¹¹

CHART XI

TOTAL ASSETS AT MARKET VALUE OF
49 FIXED AND SEMIFIXED TRUSTS



VI. TURNOVER OF INVESTMENT FUNDS

One of the most significant developments in the merchandising of fixed trust shares was the relation of total sales to the amounts outstanding at any year-end.¹²

⁹ Reply to the Commission's questionnaire for National Trust Shares, Item 23 (b).

¹⁰ Public Examination, Transcontinent Shares Corporation, at 13868.

¹¹ See Appendix D, p. 276, for annual trust assets of 49 fixed trusts.

¹² Replies to Commission's questionnaire for the respective trusts.

In the fixed trusts sponsored by Calvin Bullock the amount invested by the public was approximately \$135,000,000. The market value of the assets underlying the shares outstanding as of the year-ends indicated was as follows:

Year-end:	Assets	Year-end—Continued	Assets
1927-----	\$10,529,845	1932-----	\$32,652,511
1928-----	39,365,177	1933-----	21,299,347
1929-----	38,837,733	1934-----	11,794,264
1930-----	47,630,589	1935-----	16,418,372
1931-----	42,596,064		

The same condition existed in the trusts sponsored by Distributors Group, Incorporated, with a total public participation of \$258,402,910. The market value of the assets of these trusts as of each year-end was:

Year-end:	Assets	Year-end—Continued.	Assets
1929-----	\$32,957,269	1933-----	\$62,487,970
1930-----	98,269,838	1934-----	53,277,219
1931-----	59,518,685	1935-----	64,557,646
1932-----	50,452,961		

So too, in the trusts sponsored by Ross Beason & Co., Inc., and Smith, Burris & Company, with a total public participation of approximately \$263,000,000, the value of the assets of these trusts as of each year-end was as follows:

Year-end:	Assets	Year-end—Continued.	Assets
1927-----	\$2,641,177	1932-----	\$32,649,893
1928-----	10,479,761	1933-----	26,732,320
1929-----	19,077,208	1934-----	17,612,593
1930-----	82,314,578	1935-----	19,216,708
1931-----	48,631,915		

Hugh Bullock, when questioned on the matter of turn over of the Calvin Bullock trusts, including the fixed trusts, testified:¹³

Q. I was thinking of the total gross assets outstanding at the end of any year, which averaged around \$55,000,000.

A. I should think so.

Q. And the total amount of public investment was \$213,000,000 over this period, which would indicate a fairly good turn over, wouldn't it?

A. A normal turn over, I should think.

Q. Well, wouldn't it indicate for every \$400 that the public put in that only \$100 remained as a permanent investment?

A. The figures would indicate that, but I must point this out:

A very real factor in considering this picture from the angle that you are now standing at is this rather unique self-liquidating feature in our various trusts, as against the customary closed picture in some of these larger management trusts.

Q. Yes. Of course, you mean in your fixed trusts, too?

A. I mean that only one company that we have today out of our ten fails to have a self-liquidating feature, and I attribute as the major factor making for that turn over that you cite the self-liquidating feature that has been so common in the Bullock Trusts as a group.

¹³ Public Examination, Calvin Bullock Trusts, at 4196-7.

Lawrence W. Schmidt, secretary and director of American Depositor Corporation, testified on turn-over in fixed trust shares as follows:¹⁴

Q. We agreed * * * that the maximum assets held by all of your trusts at any year end was \$82,314,578—that figure being supplied by your own group?

A. I believe that is correct.

Q. Now, do you have figures to indicate that at any other time, that is, other than at year-ends, your maximum assets were greater than that?

A. No; we do not.

Q. So that that, so far as you know, represents the highest amount of assets you had at any one time?

A. I believe it does.

Q. And recalling that the total investment by the public in your shares was \$263,862,420, that would indicate that there was a considerable turn over, wouldn't it?

A. That is correct.

Q. Would you be willing to estimate how much turn-over that would be?

A. The size of the turn over would depend to a very great extent on the volume of shares exchanged, the volume of original series exchanged for the new series. That is only duplication, because that was the only exchange offer made.

Q. Would it be fair to say that on an inventory of eighty-two million dollars you had \$263,000,000 worth of business in a given time?

A. I don't say so. I don't think you can say that.

Q. In other words, you don't think it would be fair to say that the charges paid, that the public paid \$18,000,000 for the use of your \$82,000,000 over a period of time? You wouldn't say that?

A. No; I don't think you could say that.

* * * * *

Q. But I am asking you what the turn over is. I am saying that is what appears to be the turn over.

A. I would relate the \$82,000,000 figure to the figure representing the total sales of the various fixed trusts, I believe.

Q. Well, that would be about two hundred and thirty million.

A. Yes. On that basis we could say the turn over was approximately three to one.

* * * * *

A. As to the relationships as to the turn over, it would have to be based, I think, upon the number of shares rather than on the dollar volume, because in 1930, for example, the sales of Corporate Trust shares, original series, totaled \$108,000,000; yet at the end of 1930 the total value of the shares then outstanding, which was substantially the total number of shares sold during the year—because only four or six thousand shares had been liquidated during that year—was less than the total volume of sales, because of the market decline.

Another factor which you have to consider is the substantial return of capital made in Corporate Trust shares, Original Series, because on several semiannual distribution dates the total distributions amounted to, in one case five million and in another case about seven million dollars. And the deduction of those figures would, of course, reduce the figures comparable to the \$82,000,000 figure you mentioned there * * *.

¹⁴ Public Examination, Ross Beason & Co., Inc. Group, at 11292-5.

The conclusion to be drawn from this comparison of total sales and value of assets, as of each year-end, seems to be that the sponsors of the various trusts had a limited supply of the funds of the public with which to operate. By means of new models brought out approximately each year the available funds of the public were utilized again and again through exchanges yielding each time to the sponsors a new loading.¹⁵

¹⁵ A summary of this report and a statement of conclusions and recommendations with respect to fixed and semifixed investment trusts are contained in the section on Conclusions and Recommendations in the General Report on Investment Trusts and Investment Companies.

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APPENDIX A

Alphabetical List of Fixed and Semifixed Investment Trusts

In this appendix will be found a list of all the fixed and semi-fixed investment trusts of which the Commission had knowledge. The list was compiled from manuals, text books, magazine articles, letters to the Commission and investigations of the Commission and other federal and state agencies.

A B C Trust Shares, Series D (depositor, Allied Business Corporation Shares, Inc.).

A B C Trust Shares, Series E (depositor, Allied Business Corporation Shares, Inc.).

All-America Investors Corporation Trust Shares, Cumulative Series A (former name of Standard All-America Trust Shares).

American Accumulative Trust Shares (depositor, International Shares Corporation).

American Bank Stocks Trust Shares (depositor, Gatch Bros., Jordan & McKinney).

American Composite Trust Shares, Cumulative Series (depositor, American Composite Shares Corporation).

American Industries Participation Shares (depositor, Industrial Securities Corporation).

American Investment Trust Shares (depositor, American Corporation).

American Mutual Trust Fund (depositor, American Mutual Depositors, Inc.).

American Railway Trust Shares (depositor, American Railway Shares Corporation).

Associated National Shares, Series A (depositor, General American Securities, Inc.).

Associated Standard Oil Stocks Shares, Series A (depositor, General American Securities, Inc.).

Associated Union Trust Shares, Series A (depositor, Associated Union Participating Shares Corporation).

Atlantic National Trust Shares, Series A (depositor, Atlantic National Shares Corporation).

Automotive Participation Shares (depositor, Industrial Securities Corporation).

Bank Stock Trust Shares, Series A (depositor, Participating Investors Shares Corporation).

Bank Stock Trust Shares, Series A (depositor, Equitable Investment Trust, Inc.).

Bank Stock Trust Shares, Series C-1 (depositor, Investors Sponsor Corporation).

Bank Stock Trust Shares, Series C-2 (depositor, Investors Sponsor Corporation).

Bank Stock Trust Shares, Series C-3 (former name of United New York Bank Trust Shares).

Bank Stock Trustee Shares of Columbus (depositor, Archer, Hugh M., & Co.).

Basic Industry Shares (depositor, American Depositor Corporation).
Basic Insurance Shares, Series A (depositor, Basic Shares Corporation).
Basic Insurance Shares, Series B (depositor, Basic Shares Corporation).
Basic Insurance Shares, Series C (depositor, Basic Shares Corporation).
Bond Trust Shares, Series B (depositor, United States Shares Corporation).
Brandywine Shares (depositor, Brandywine Corporation).
Buckeye Trust Shares, Series A (depositor, Buckeye Shares, Inc.).
Business Recovery Trust Shares (depositor, Business Recovery Corporation).
California Oil Investment Trust (depositor, Investment Bond & Share Co.).
Canadian Bank Stock Trust Shares, Series D (depositor, United States Shares Corporation).
Canadian Bankstocks, Inc., Trust Certificates (depositor, Canadian Bankstocks, Inc.).
Capital Trust Shares, Series A (depositor, Capital Depositor Corporation).
Chicago Bank Participation Shares (depositor, Industrial Securities Corporation).
Chicago Bank Shares (depositor, Finance Shares Corporation).
Cincinnati Combined Securities Trustee Shares (depositor, Cincinnati Combined Securities Co.).
Collateral Equities Trust Shares (depositor, Collateral Equities, Inc.).
Collateral Trustee Shares (9/1/25) (depositor, New England Investment Trust, Inc.).
Collateral Trustee Shares (4/16/27) (depositor, New England Investment Trust, Inc.).
Collateral Trustee Shares (depositor, Investment Trust of New York, Inc.).
Colonial Investors Shares, Series A (depositor, Colonial Investors Corporation).
Combined Trust Shares (of Rails, Industrials, Utilities) (depositor, Combined Holdings Corporation).
Combined Trust Shares (of Standard Oil Group) (depositor, Combined Holdings Corporation).
Common-stock Trust Shares, Series A (depositor, North and South American Corporation (Delaware)).
Common-stock Trust Shares, Series A-1 (depositor, North and South American Corporation (Delaware)).
Commonwealth Insurance Shares, Series A (depositor, Commonwealth Securities Corporation, Ltd.).
Commonwealth Insurance Shares, Series B (depositor, Commonwealth Securities Corporation, Ltd.).
Commonwealth Insurance Shares, Series C (depositor, Commonwealth Securities Corporation, Ltd.).
Commonwealth Trust Shares (depositor, Commonwealth Depositor Corporation).
Commonwealth Trust Shares (depositor, Standard Depositors Corporation).
Composite Bond Unit Trust Certificates (depositor, Composite Bond Unit Corporation).
Consolidated Trust Shares (depositor, Affiliated Group, Inc.).
Corporate Trust Shares (depositor, American Depositor Corporation).
Corporate Trust Shares, Accumulative Series (depositor, American Depositor Corporation).
Corporate Trust Shares, Accumulative Series (Modified) (depositor, American Depositor Corporation).
Corporate Trust Shares, Series AA (depositor, American Depositor Corporation).

- Corporate Trust Shares, Series AA (Modified) (depositor, American Depositor Corporation).
- Cumulative Trust Shares (depositor, Distributors Group, Incorporated).
- Deposited Bank Shares, N. Y., Series A (depositor, Transcontinent Shares Corporation).
- Deposited Bank Shares, Series B-1 (depositor, Transcontinent Shares Corporation).
- Deposited Bank Shares, Series N. Y. (depositor, Transcontinent Shares Corporation).
- Deposited Bond Certificate Convertible Debentures, Series 1938 (depositor, Allied General Corporation).
- Deposited Insurance Shares, Series A (depositor, Transcontinent Shares Corporation).
- Deposited Insurance Shares, Series B (depositor, Transcontinent Shares Corporation).
- Detroit Bank Participation Shares (depositor, Industrial Securities Corporation).
- Detroit Bank Shares (depositor, Industrial Securities Corporation).
- Diversified Trustee Shares, Original Series (depositor, American Trustee Share Corporation).
- Diversified Trustee Shares, Series B (depositor, American Trustee Share Corporation).
- Diversified Trustee Shares, Series C (depositor, American Trustee Share Corporation).
- Diversified Trustee Shares, Series D (depositor, American Trustee Share Corporation).
- Dominant Trust Shares (depositor, Dominant Corporations of America Depositors, Inc.).
- Equity Trust Shares in America (depositor, Equity Securities Corporation).
- First Bank Trust Shares, Series A (depositor, First Bancshares Corporation).
- First Bank Trust Shares, Series B (depositor, First Bancshares Corporation).
- First Bond Trust Shares (depositor, First Depositor Corporation).
- First Custodian Shares (depositor, First Custodian Shares Corporation).
- First Diversified Bond Trust (depositor, First Diversified Bond Depositor, Inc.).
- First Trust Shares (depositor, First Shares Corporation).
- 5-Year Fixed Trust Shares (depositor, American Depositor Corporation).
- Fixed Trust Oil Shares (depositor, American Depositor Corporation).
- Fixed Trust Shares (depositor, American Depositor Corporation).
- Fixed Trust Shares, Series B (depositor, American Depositor Corporation).
- Foreign Government Bond Trust Certificates (depositor, Financial Investing Co. of New York, Ltd.).
- Foremost Industries Trustee Shares, Series A (depositor, Foremost Industries Trustee Shares Corporation).
- Forty Bond Syndicate Participation Certificates (depositor, McDonald-Coolidge & Co.).
- Foundation Trust Shares, Series A (depositor, United Endowment Foundation, Inc.).
- Foundation Trusteed Shares, Series A (depositor, Trusteed Equities Foundation, Inc.).
- Frontenac Trust Shares (depositor, Frontenac Corporation).
- Fundamental Trust Shares, Series A (depositor, Fundamental Group Corporation).

Fundamental Trust Shares, Series B (depositor, Fundamental Group Corporation).

Home State Shares, Series A (depositor, Home State Shares, Inc.).

Income Trust Shares (depositor, Income Distributors, Inc.)

Independence Trust Shares (depositor, Independence Shares Corporation (Pennsylvania)).

Industrial Trustee Shares (depositor, American Trustee Share Corporation).

Insurance Shares Participations, Series A (depositor, Deposited Bonds & Shares Corporation).

Insurance Stock Trust Shares, Series F (former name of United Insurance Trust Shares).

Integrity Trust Shares, Series A (depositor, Integrity Securities Corporation).

International Insurance Shares (former name of Commonwealth Insurance Shares, Series B).

Investment Trust Certificates, Series A (depositor, Investing Corporation of America).

Investment Trust Shares (depositor, Investment Shares Corporation).

Investors Bond Certificates, Series A (depositor, Staats, William R. Co.).

Investors Trustee Shares, Series A (depositor, Investors Trustee Foundation of United States, Inc.).

Johnston Plan Collateral Trust Certificates (depositor, Johnston Plan Collateral Trust).

Key Industry Trust Shares, Series H (former name of United Oil Trust Shares, Series H).

Leaders of Industry Shares, Series A (depositor, General Shares Corporation).

Leaders of Industry Shares, Series B (depositor, General Shares Corporation).

Leaders of Industry Shares, Series C (depositor, General Shares Corporation).

Leverage Fixed Trust Shares (depositor, National Re-Investing Corporation).

Low Priced Shares (depositor, Capital Accumulation Corporation).

Major Corporation Shares (depositor, Major Shares Corporation).

Michigan Shares, Series A (depositor, American Industries Corporation).

National Industries Shares, Series A (depositor, National Industries Shares, Inc.).

National Industries Shares, Series B (depositor, National Industries Shares, Inc.).

National Trust Shares (depositor, National Depositor Corporation).

National Units of America Shares (depositor, National Units Corporation).

Nation-Wide Securities Co., Trust Certificates, Series A (depositor, Nation-Wide Securities Co. (Colorado)).

Nation-Wide Securities Co., Trust Certificates, Series B (depositor, Nation-Wide Securities Co. (Colorado)).

New Day Trust Shares, Series A (depositor, New Day Depositors Corporation).

New York Bank Trust Shares (depositor, National Distributors Corporation).

North American Trust Shares, 1953 (depositor, Distributors Group, Incorporated).

North American Trust Shares, 1955 (depositor, Distributors Group, Incorporated).

North American Trust Shares, 1956 (depositor, Distributors Group, Incorporated).

North American Trust Shares, 1958 (depositor, Distributors Group, Incorporated).

Oil and Natural Gas Shares, Series A (depositor, Oil and Natural Gas Shares, Inc.).

Old Line Insurance Shares (depositor, Industrial Securities Corporation).

Old Line Insurance Shares, Series B (depositor, Industrial Securities Corporation).

Participations in Select Standard Oils (depositor, Standard Shares, Inc.).

Pioneer Trust Shares (depositor, Pioneer Investors Corporation).

- Power and Rail Trusteed Shares (depositor, Distributing and Management Corporation).
- Primary Trust Shares, Series A (depositor, Primary Shares, Inc.).
- Provident Trustee Shares (depositor, Provident Trustee Foundation, Inc.).
- Prudential Co., Investment Trust Shares, Series A (depositor, Prudential Co.).
- Prudential Co., Investment Trust Shares, Series B (depositor, Prudential Co.).
- Public Service Trust Shares, Series A (depositor, Affiliated Management, Inc.).
- Public Service Trust Shares, Series A (depositor, International Capital Corporation).
- Railroad Investment Shares (depositor, Combined Holdings Corporation).
- Representative Trust Shares (depositor, Mutual Depositor Corporation).
- Republic Trust Shares, Series A (depositor, Republic Shares Corporation).
- Schuyler Trust Shares (depositor, Schuyler Corporation).
- Seasoned Securities Trust Shares, Series A (depositor, Seasoned Securities, Inc.).
- Second Custodian Shares (depositor, Second Custodian Shares Corporation).
- Selected American Shares (depositor, Selected Shares Corporation).
- Selected Cumulative Shares (depositor, Selected Shares Corporation).
- Selected Income Shares (depositor, Selected Shares Corporation).
- Selected Managements Trustee Shares (depositor, Selected Managements, Inc.).
- Short Term Trust Shares (depositor, Affiliated Dealers, Inc.).
- Short Term Trust Shares, Series U (depositor, United States Shares Corporation).
- Standard All-America Trust Shares (former name, All-America Investors Corporation Trust Shares, Cumulative, Series A).
- Standard All-America Trust Shares (depositor, Standard All-America Corporation).
- Standard American Trust Shares (depositor, Standard American Corporation).
- Standard Collateral Trusteed Common Stock Shares (depositor, Standard Collateral Shares Corporation).
- Standard Oil Investment Shares, Series A (depositor, Standard Oil Investment Trust, Inc.).
- Standard Oil Trust Shares, Series A (depositor, Standard Group, Inc.).
- Standard Oil Trust Shares, Series B (depositor, Standard Group, Inc.).
- Standard Oilstocks Trust Shares (former name of Combined Trust Shares (of Standard Oil Group)).
- Super-Corporations of America Trust Shares, Series A (depositor, Super-Corporations of America Depositors, Inc.).
- Super-Corporations of America Trust Shares, Series B (depositor, Super-Corporations of America Depositors, Inc.).
- Super-Corporations of America Trust Shares, Series C (depositor, Super-Corporations of America Depositors, Inc.).
- Super-Corporations of America Trust Shares, Series D (depositor, Super-Corporations of America Depositors, Inc.).
- Super-Corporations of America Trust Shares, Series AA (depositor, Super-Corporations of America Depositors, Inc.).
- Super-Corporations of America Trust Shares, Series BB (depositor, Super-Corporations of America Depositors, Inc.).
- Supervised American Fixed Equities (depositor, Security Distributors of America, Inc.).
- Tobacco Trust Shares, Series A (depositor, Share and Units Corporation).

Tobacco Trust Shares, Series AB (depositor, Share and Units Corporation).
Trust Endowment Shares, Series A (depositor, Corporate Equities, Inc.).
Trust Fund Shares (depositor, Depositors and Distributors Corporation).
Trust Shares of America (depositor, Distributors Guild, Inc.).
Trustee Food Shares, Series A (depositor, National Food Shares Corporation).
Trustee Standard Investment Shares, Series C (depositor, Deposited Funds Corporation).
Trustee Standard Investment Shares, Series D (depositor, Deposited Funds Corporation).
Trustee Standard Oilshares, Series A (depositor, Standard Oilshares, Inc.).
Trustee Standard Oilshares, Series B (depositor, Standard Oilshares, Inc.).
Trustee Standard Utility Shares (depositor, Deposited Funds Corporation).
Trusteed American Bank Shares, Original Series (depositor, Affiliated Management, Inc.).
Trusteed American Bank Shares, Series A (depositor, Affiliated Management, Inc.).
Trusteed American Bank Shares, Series B (depositor, Administrative Corporation).
Trusteed Industry Shares (depositor, T. I. S. Management Corporation).
Trusteed New York Bank Shares (depositor, National Associated Dealers, Inc.).
Trusteed New York City Bank Stocks (depositor, New York Depositor Corporation).
Twentieth Century Fixed Trust Shares, Original Series (depositor, Twentieth Century Depositor Corporation).
Twentieth Century Fixed Trust Shares, Series B (depositor, Twentieth Century Depositor Corporation).
Two-Year Trust Shares (depositor, Two-Year Shares Corporation).
Two-Year Trust Shares, Series B (depositor, Two-Year Shares Corporation).
Unified Service Trust Shares, Series A (depositor, Distributors Unified Service, Inc.).
Unified Service Trust Shares, Series B (depositor, Distributors Unified Service, Inc.).
Unified Service Trust Shares, Series C (depositor, Distributors Unified Service, Inc.).
Union Insurance Shares, Series A (depositor, Commonwealth Financial Corporation).
Union Management Trust (depositor, Union Trust Co., The).
United American Chain Stores, Inc., Bankers' Shares (depositor, United American Chain Stores, Inc.).
United American Electric Cos., Inc., Bankers' Shares (depositor, United American Electric Cos., Inc.).
United American Railways, Inc., Bankers' Shares (depositor, United American Railways, Inc.).
United American Trust Shares (depositor, United American Shares Corporation).
United Bankers Oil Co., Inc., Bankers' Shares (depositor, United Bankers Oil Co., Inc.).
United Common Trust Shares, Series A-2 (depositor: North and South American Corporation (Delaware)).
United Fixed Shares (depositor, Frear & Co., Inc.).
United Fixed Shares, Series Y (former name of United Fixed Shares).

United Insurance Trust Shares (depositor, Investors Sponsor Corporation).

United Investment Shares, Series A (depositor, United Investment Shares, Inc.).

United Investment Shares, Series C (depositor, United Investment Shares, Inc.).

United New York Bank Trust Shares (depositor, Investors Sponsor Corporation).

United Oil Trust Shares, Series H (depositor, Argosy Associates, Inc.).

United States Electric Light & Power Shares, Inc., Trust Certificates, Series A (depositor, United States Electric Light & Power Shares, Inc.).

United States Electric Light & Power Shares, Inc., Trust Certificates, Series B (depositor, United States Electric Light & Power Shares, Inc.).

United Trust Shares, Series A-2 (former name of United Common Trust Shares, Series A-2).

Universal Trust Shares (depositor, National Associated Dealers, Inc.).

Utilities Public Service Shares (depositor, Utilities Hydro & Rails Shares Corporation).

APPENDIX B

List of Depositors of Fixed Investment Trusts

Appendix B is a list of depositors of fixed and semifixed investment trusts with the names of the trusts for which they were the depositors as of December 31, 1935.

DEPOSITOR AND TRUST

Administrative Corporation: Trusteed American Bank Shares, Series B.

Affiliated Dealers, Inc.: Short-Term Trust Shares.

Affiliated Distributing Group, Inc. (former name of Affiliated Management, Inc.)

Affiliated Group, Inc.: Consolidated Trust Shares.

Affiliated Management, Inc., depositor and sponsor (former name: Affiliated Distributing Group, Inc.) (former name: American Associated Dealers, Inc. (New Jersey)):

Trusteed American Bank Shares, Original Series.

Trusteed American Bank Shares, Series A.

Public Service Trust Shares, Series A.

All-America Investors Corporation (former name of Standard All-America Corporation).

Allen & Marce, Inc. (predecessor of Commonwealth Securities Corporation, Ltd.):

Allied Business Corporation Shares, Inc. (former name: American Business Corporation Shares, Inc.):

ABC Trust Shares, Series D.

ABC Trust Shares, Series E.

Allied General Corporation: Deposited Bond Certificates, Conv. Deb. Series 1938.

American Associated Dealers, Inc. (New Jersey) (former name of Affiliated Management, Inc.).

American Basic-Business Shares Corporation (predecessor of American Depositor Corporation).

American Business Corporation Shares, Inc. (former name of Allied Business Corporation Shares, Inc.).

American Composite Shares Corporation: American Composite Trust Shares, Cumulative Series.

American Corporation (The): American Investment Trust Shares.

American Depositor Corporation (predecessor: American Basic-Business Shares Corporation):

Basic Industry Shares.

Corporate Trust Shares, Original Series.

Corporate Trust Shares, Accumulative Series.

Corporate Trust Shares, Accumulative Series (Modified).

Corporate Trust Shares, Series AA.

Corporate Trust Shares, Series AA (Modified).

5-Year Fixed Trust Shares.

Fixed Trust Oil Shares.

- American Depositor Corporation (predecessor: American Basic-Business Shares Corporation)—Continued.
- Fixed Trust Shares.
 - Fixed Trust Shares, Series B.
- American Industries Corporation: Michigan Shares, Series A.
- American Mutual Depositors, Inc. (former name: Leading Industrial & Bancshares, Inc.): American Mutual Trust Fund.
- American Railway Shares Corporation: American Railway Trust Shares.
- American Trustee Share Corporation:
- Diversified Trustee Shares, Original Series.
 - Diversified Trustee Shares, Series B.
 - Diversified Trustee Shares, Series C.
 - Diversified Trustee Shares, Series D.
 - Industrial Trustee Shares.
- Archer, Hugh M., & Co.: Bank Stock Trustee Shares of Columbus.
- Argosy Associates, Inc.: United Oil Trust Shares, Series H (formerly Key Industry Tr. Shs., Series H).
- Associated Distributors, Inc. (former name of Major Shares Corporation).
- Associated Union Participating Shares Corporation: Associated Union Trust Shares, Series A.
- Atlantic Bancshares Corporation (former name of Atlantic National Shares Corporation).
- Atlantic National Shares Corporation (former name: Atlantic Shares Corporation) (former name: Atlantic Bancshares Corporation): Atlantic National Trust Shares, Series A.
- Atlantic Shares Corporation (former name of Atlantic National Shares Corporation).
- Bank and Insurance Shares, Inc. (former name of Transcontinent Shares Corporation):
- Deposited Bank Shares, Series B-1.
 - Deposited Bank Shares, Series N. Y.
 - Deposited Insurance Shares, Series A.
 - Deposited Bank Shares, N. Y., Series A.
 - Deposited Insurance Shares, Series B.
- Basic Shares Corporation:
- Basic Insurance Shares, Series A.
 - Basic Insurance Shares, Series B.
 - Basic Insurance Shares, Series C.
- Buckeye Shares, Inc.: Buckeye Trust Shares, Series A.
- Business Recovery Corporation: Business Recovery Trust Shares.
- Canadian Bankstocks, Inc.: Canadian Bankstocks, Inc., Trust Certificates.
- Capital Accumulation Corporation: Low Priced Shares.
- Capital Depositor Corporation: Capital Trust Shares, Series A.
- Cincinnati Combined Securities Co.: Cincinnati Combined Securities Trustee Shares.
- Collateral Equities, Inc.: Collateral Equities Trust Shares.
- Colonial Investors Corporation: Colonial Investors Shares, Series A.
- Combined Holdings Corporation (former name: Standard Oilstocks Corporation) (predecessor: Group Investment Shares, Inc.):
- Combined Trust Shares (of Rails, Industrials, Utilities).
 - Combined Trust Shares (of Standard Oil Group).
 - Railroad Investment Shares.

- Commonwealth Depositor Corporation: Commonwealth Trust Shares.
Commonwealth Financial Corporation: Union Insurance Shares, Series A.
Commonwealth Securities Corporation, Ltd. (predecessor, Allen & Maree, Inc.):
 Commonwealth Insurance Shares, Series A.
 Commonwealth Insurance Shares, Series B.
 Commonwealth Insurance Shares, Series C.
Composite Bond Unit Corporation (former name: Murphy Favre Insurance Agency): Composite Bond Unit Trust Certificates.
Corporate Equities, Inc.: Trust Endowment Shares, Series A.
Cumulative Shares Corporation (predecessor of Distributors Group, Incorporated as depositor for Cumulative Trust Shares).

Deposited Bonds, Inc. (former name of Deposited Bonds and Shares Corporation).
Deposited Bond and Shares Corporation (former name: Deposited Bonds, Inc.):
 Insurance Shares Participations, Series A.
Deposited Funds Corporation (former name: Trustee Standard Shares, Inc.):
 Trustee Standard Investment Shares, Series C.
 Trustee Standard Investment Shares, Series D.
 Trustee Standard Utility Shares.
Depositors and Distributors Corporation: Trust Fund Shares.
Distributing and Management Corporation: Power and Rail Trusteed Shares.
Distributors Group, Incorporated (former name: Founders Group, Inc.) (predecessor, Cumulative Shares Corporation as depositor for Cumulative Trust Shares):
 North American Trust Shares, 1953.
 North American Trust Shares, 1955.
 North American Trust Shares, 1956.
 North American Trust Shares, 1958.
 Cumulative Trust Shares.
Distributors Guild, Inc.: Trust Shares of America.
Distributors Unified Service, Inc.:
 Unified Service Trust Shares, Series A.
 Unified Service Trust Shares, Series B.
 United Service Trust Shares, Series C.
Dominant Corporations of America Depositors, Inc.: Dominant Trust Shares.

Equitable Investment Trust, Inc.: Bank Stock Trust Shares, Series A.
Equity Securities Corporation: Equity Trust Shares in America.
Finance Shares Corporation: Chicago Bankshares.
Financial Investing Company of New York, Ltd.: Foreign Government Bond Trust Certificates.
First Bancshares Corporation:
 First Bank Trust Shares, Series A.
 First Bank Trust Shares, Series B.
First Custodian Shares Corporation: First Custodian Shares.
First Depositor Corporation: First Bond Trust Shares.
First Diversified Bond Depositor, Inc.: First Diversified Bond Trust.
First Shares Corporation: First Trust Shares.
Foremost Industries Trustee Shares Corporation: Foremost Industries Trustee Shares, Series A.
Founders Group, Inc. (former name of Distributors Group, Incorporated).
Frear and Company, Inc.: United Fixed Shares.
Frontenac Corporation: Frontenac Trust Shares.

Fundamental Group Corporation :

Fundamental Trust Shares, Series A.

Fundamental Trust Shares, Series B.

Gatch Bros., Jordan & McKinney (former name: Gatch Bros., Jordan & McKinney, Inc.) (former name: Gatch Bros. & Co.) : American Bank Stocks Trust Shares.

General American Securities, Inc.:

Associated Standard Oil Stock Shares, Series A.

Associated National Shares, Series A.

General Shares Corporation :

Leaders of Industry Shares, Series A.

Leaders of Industry Shares, Series B.

Leaders of Industry Shares, Series C.

Group Investment Shares, Inc. (predecessor of Combined Holding Corporation) : Railroad Investment Shares.

Home State Shares, Inc. : Home State Shares, Series A.

Income Distributors, Inc. : Income Trust Shares.

Independence Shares Corporation : Independence Trust Shares.

Industrial Securities Corporation :

Detroit Bank Shares.

Old Line Insurance Shares.

American Industries Participation Shares.

Chicago Bank Participation Shares.

Detroit Bank Participation Shares.

Automotive Participation Shares.

Old Line Insurance Shares, Series B.

Integrity Securities Corporation : Integrity Trust Shares, Series A.

International Capital Corporation : Public Service Trust Shares, Series A.

International Shares Corporation : American Accumulative Trust Shares.

The Investing Corporation of America : Investment Trust Certificates, Series A.

Investment Bond & Share Co. : California Oil Investment Trust.

Investment Shares Corporation : Investment Trust Shares.

Investment Trust of New York, Inc. : Collateral Trustee Shares.

Investors Sponsor Corporation (former name: North and South American Corporation (New York)) :

United New York Bank Trust Shares (formerly Bank Stock Trust Shares, Series C-3).

United Insurance Trust Shares (formerly Insurance Stock Trust Shares, Series F).

Bank Stock Trust Shares, Series C-1.

Bank Stock Trust Shares, Series C-2.

Investors Trustee Foundation of United States, Inc. : Investors Trustee Shares, Series A.

Johnston Plan Collateral Trust : Johnston Plan Collateral Trust Certificates.

Leading Industrial & Bancshares, Inc. (former name of American Mutual Depositors, Inc.).

McDonald-Callahan-Richards Co. (former name of McDonald-Coolidge & Co.).

McDonald-Coolidge & Co. (former name: McDonald-Callahan-Richards Co.) :

Forty Bond Syndicate Participation Certificates.

- Major Shares Corporation (former name: Associated Distributors, Inc.): Major Corporation Shares.
- Murphy Favre Insurance Agency (former name of Composite Bond Unit Corporation).
- Mutual Depositor Corporation: Representative Trust Shares.
- Nation-Wide Securities Co. (Colo.):
- Nation-Wide Securities Co., Trust Certificates, Series A.
 - Nation-Wide Securities Co., Trust Certificates, Series B.
- National Associated Dealers, Inc.:
- Trusted New York Bank Shares.
 - Universal Trust Shares.
- National Depositor Corporation:
- National Trust Shares (unmodified).
 - National Trust Shares (modified).
- National Distributors Corp.: New York Bank Trust Shares.
- National Food Shares Corporation: Trustee Food Shares, Series A.
- National Industries Shares, Inc. (former name: Palmer Shares Corporation):
- National Industries Shares, Series A.
 - National Industries Shares, Series B.
- National Re-Investing Corporation (former name: Investment Trust Investors, Inc.): Leverage Fixed Trust Shares.
- National Units Corporation: National Units of America Shares.
- New Day Depositors Corporation: New Day Trust Shares, Series A.
- New England Investment Trust, Inc. (former name of New England Investors Shares, Inc.).
- New England Investors Shares, Inc. (former name: New England Investment Trust, Inc.):
- New England Investment Trust, Inc.
 - Collateral Trustee Shares (9/1/25).
 - New England Investment Trust, Inc.
 - Collateral Trustee Shares (4/16/27).
- New York Depositor Corporation: Trusted New York City Bank Shares.
- North and South American Corporation (New York) (former name of Investors Sponsor Corporation).
- North and South American Corporation (Delaware):
- United Common Trust Shares, Series A-2.
 - Common Stock Trust Shares, Series A-1.
 - Common Stock Trust Shares, Series A.
- Oil and Natural Gas Shares, Inc.: Oil and Natural Gas Shares, Series A.
- Palmer Shares Corporation (former name of National Industries Shares, Inc.).
- Participating Investors Shares Corporation: Bank Stock Trust Shares, Series A.
- Pioneer Investors Corporation: Pioneer Trust Shares.
- Primary Shares, Inc.: Primary Trust Shares, Series A.
- Provident Trustee Foundation, Inc.: Provident Trustee Shares.
- Prudential Co.:
- Prudential Co. Investment Trust Shares, Series A.
 - Prudential Co. Investment Trust Shares, Series B.
- Republic Shares Corporation: Republic Trust Shares (Series A).
- Schuyler Corporation: Schuyler Trust Shares.
- Seasoned Securities, Inc.: Seasoned Securities Trust Shares, Series A.

- Second Custodian Shares Corporation: Second Custodian Shares.
- Security Distributors Corporation. (Original depositor of Public Service Trust Shares, Series A.)
- Security Distributors of America, Inc. (former name: Standard American Fixed Equities, Inc.): Supervised American Fixed Equities.
- Selected Managements, Inc.: Selected Managements Trustee Shares.
- Selected Shares Corporation:
- Selected American Shares.
 - Selected Income Shares.
 - Selected Cumulative Shares.
- Share and Units Corporation:
- Tobacco Trust Shares, Series A.
 - Tobacco Trust Shares, Series AB.
- Slayton-Learoyd, Inc. (former name of Massachusetts Distributors, Inc.).
- Staats, William R. Co.: Investors Bond Certificates, Series A.
- Standard All-America Corporation (former name: All-America Investors Corporation) (predecessor, Standard American Corporation): Standard All-America Trust Shares (former name: All-America Investors Corporation Trust Shares, Cumulative Series A).
- Standard American Corp. (former name: American Shares, Inc.) (predecessor of Standard All-America Corporation): Standard American Trust Shares.
- Standard American Fixed Equities, Inc. (former name of Security Distributors of America, Inc.).
- Standard Collateral Shares Corporation: Standard Collateral Trusteed Common Stock Shares.
- Standard Depositors Corporation (former name: Standard Finance Corporation): Commonwealth Trust Shares.
- Standard Finance Corporation (former name of Standard Depositors Corporation).
- Standard Group, Inc. (former name: Standard Oil Group, Inc.):
- Standard Oil Trust Shares, Series A.
 - Standard Oil Trust Shares, Series B.
- Standard Oil Group, Inc. (former name of Standard Group, Inc.).
- Standard Oil Investment Trust, Inc.: Standard Oil Investment Shares, Series A.
- Standard Oilshares, Inc.:
- Trustee Standard Oilshares, Series A.
 - Trustee Standard Oilshares, Series B.
- Standard Shares, Inc.: Participations in Select Standard Oils.
- Super-Corporations of America Depositors, Inc.: Super-Corporations of America Trust Shares:
- Series A.
 - Series B.
 - Series C.
 - Series D.
 - Series AA.
 - Series BB.
- T. I. S. Management Corporation: Trusteed Industry Shares.
- Transcontinent Shares Corporation. (See Bank and Insurance Shares, Inc.)
- Transcontinental Shares Corporation (original depositor of Universal Trust Shares).
- Trustee Standard Shares, Inc. (former name of Deposited Funds Corporation).
- Trusteed Equities Foundation, Inc.: Foundation Trusteed Shares.

20th Century Depositor Corporation:

20th Century Fixed Trust Shares, Original Series.

20th Century Fixed Trust Shares, Series B.

Two Year Share Corporation:

Two Year Trust Shares.

Two Year Trust Shares, Series B.

United American Chain Stores, Inc.: United American Chain Stores, Inc., Bankers Shares.

United American Electric Cos., Inc.: United American Electric Cos., Inc., Bankers Shares.

United American Railways, Inc.: United American Railways, Inc., Bankers Shares.

United American Shares Corp.: United American Trust Shares.

United Bankers Oil Co.: United Bankers Oil Co., Bankers Shares.

United Endowment Foundation, Inc. (former name: United Investors Foundation, Inc.): Foundation Trust Shares, Series A.

United Investment Shares, Inc.:

United Investment Shares, Series A.

United Investment Shares, Series C.

United Investors Foundation, Inc. (former name of United Endowment Foundation, Inc.).

United States Electric Light & Power Shares, Inc. (Delaware):

United States Electric Light & Power Shares, Trust Certificates, Series A.

United States Electric Light & Power Shares, Trust Certificates, Series B.

United States Shares Corporation (Maryland):

Bond Trust Shares, Series B.

Canadian Bank Stock Trust Shares, Series D.

Short Term Trust Shares, Series U.

United States Shares Corporation (New York) (former name of United Holding Corporation) original depositor of—

Bank Stock Trust Shares, Series C-1.

Bank Stock Trust Shares, Series C-2.

Bond Trust Shares, Series B.

Canadian Bank Stock Trust Shares, Series D.

Common Stock Trust Shares, Series A.

Common Stock Trust Shares, Series A-1.

Short Term Trust Shares, Series U.

United Common Trust Shares, Series A-2.

United Fixed Shares.

United Insurance Trust Shares.

United New York Bank Trust Shares.

United Oil Trust Shares, Series H.

Utilities Hydro & Rails Shares Corporation: Utilities Public Service Shares.

APPENDIX C

List of Trustees of Fixed Investment Trusts

This appendix consists of a list of the trustees of fixed and semi-fixed investment trusts of which the Commission had knowledge, together with the trusts for which they acted as trustee as of December 31, 1935. In cases where the trustee has resigned, the original trustees and the successor trustees are indicated as such.

AMERICAN EXPRESS BANK AND TRUST COMPANY, New York, N. Y.
(merged with Equitable Trust Company of New York, December 19, 1931):
Oil and Natural Gas Shares, Series A (original trustee).

AMERICAN NATIONAL BANK OF DENVER, Denver, Colo.: Commonwealth Trust Shares (no shares issued).

AMERICAN TRUST COMPANY, New York, N. Y. (merged with Bank of Manhattan Trust Company): Investment Trust Certificates, Series A (original trustee).

ANGLO-CALIFORNIA NATIONAL BANK, San Francisco, Calif.: American Accumulative Trust Shares.

BANK OF AMERICA NATIONAL ASSOCIATION, New York, N. Y. (merged with National City Bank of New York, November 28, 1931):

Atlantic National Trust Shares, Series A (original trustee).

Capital Trust Shares, Series A (original trustee).

Foundation Trustee Shares, Series A (original trustee).

Income Trust Shares (original trustee).

Integrity Trust Shares, Series A (original trustee).

Seasoned Securities Trust Shares, Series A (original trustee).

Supervised American Fixed Equities (original trustee).

20th Century Fixed Trust Shares (original trustee).

United Common Trust Shares, Series A-2 (original trustee).

Cumulative Trust Shares (original trustee).

North American Trust Shares 1955 (original trustee).

North American Trust Shares 1956 (original trustee).

United Oil Trust Shares, Series H (original trustee).

BANK OF COMMERCE AND TRUST COMPANY, Cincinnati, Ohio (in liquidation since November 1, 1930): Cincinnati Combined Security Trust Shares.

BANK OF MANHATTAN TRUST COMPANY, New York, N. Y.:

Fundamental Trust Shares, Series A.

Fundamental Trust Shares, Series B.

Investment Trust Certificates, Series A (successor trusts).

BANK OF NEW YORK AND TRUST COMPANY, New York, N. Y.: Standard Oil Investment Shares, Series A.

BANK OF UNITED STATES, THE, New York, N. Y. (in liquidation since December 11, 1930): Bond Trust Shares, Series B (successor trustee).

CENTRAL HANOVER BANK AND TRUST COMPANY, New York, N. Y.:

Investment Trust Shares.

Standard All-America Corporation Trust Shares, Series A.

CENTRAL HANOVER BANK AND TRUST COMPANY, New York, N. Y.—Con.

Two-Year Trust Shares, Series A.

Two-Year Trust Shares, Series B.

Trust Shares of America.

United States Electric Light & Power Shares, Inc., Trust Certificates, Series A (successor trustee).

Nation-Wide Securities Company Trust Certificates, Series B.

United States Electric Light & Power Shares, Inc., Trust Certificates, Series B.

National Trust Shares.

Trusted New York Bank Shares (original trustee).

Super-Corporations of America Trust Shares, Series C and D.

Power and Rail Trusted Shares.

Primary Trust Shares, Series A.

CENTRAL NATIONAL BANK AND TRUST COMPANY, Des Moines, Iowa :

First Trust Shares.

CENTRAL MERCANTILE BANK AND TRUST COMPANY, New York, N. Y.

(merged with The Bank of the United States) : Bond Trust Shares, Series B (original trustee).

CENTRAL REPUBLIC BANK AND TRUST COMPANY, Chicago, Ill. (receiver appointed on November 21, 1934) :

American Investment Trust Shares (successor trustee).

Commonwealth Trust Shares (successor trustee).

Investment Trust Shares :

Series A (successor trustee).

Series B (first successor trustee).

Unified Service Trust Shares :

Series A (successor trustee).

Series B (successor trustee).

Series C (successor trustee).

Selected Cumulative Shares (original trustee).

Selected American Shares (first successor trustee).

Selected Income Shares (first successor trustee).

CENTRAL TRUST COMPANY, Chicago, Ill. (merged to form Central Republic Bank and Trust Company on July 7, 1931, now Central Republic Trust Company) :

American Investment Trust Shares (original trustee).

Unified Service Trust Shares :

Series A (original trustee).

Series B (original trustee).

Series C (original trustee).

CENTRAL UNITED NATIONAL BANK, Cleveland, Ohio (name changed to Central National Bank of Cleveland) : Forty Bond Syndicate.**CENTRAL UNION TRUST COMPANY OF NEW YORK (consolidated with Hanover National Bank on May 15, 1929 to form Central Hanover Bank and Trust Company) :**

Investment Trust Shares (original trustee)

United States Electric Light & Power Shares.

Trust Certificates, Series A (original trustee).

CHASE NATIONAL BANK OF THE CITY OF NEW YORK (THE), New York, N. Y. :

Common Stock Trust Shares, Series A-1.

Fixed Trust Oil Shares (successor trustee).

CHASE NATIONAL BANK OF THE CITY OF NEW YORK (THE), New York,
N. Y.—Continued.

- Representative Trust Shares.
- Investors Trustee Shares, Series A.
- Fixed Trust Shares (successor trustee).
- Fixed Trust Shares, Series B (successor trustee).
- Basic Industry Shares (successor trustee).
- Corporate Trust Shares.
- Corporate Trust Shares, Series AA.
- Corporate Trust Shares, Series AA (Modified).
- Corporate Trust Shares (Accumulative Series).
- Corporate Trust Shares (Accumulative Series) (Modified).
- 5-Year Fixed Trust Shares.
- National Industries Shares, Series A.
- American Composite Trust Shares (Cumulative Series).

CHATHAM PHENIX NATIONAL BANK AND TRUST COMPANY, New York,
N. Y. (merged with Manufacturers Trust Company on February 9, 1932):

- Deposited Bond Certificates, Series 1928 (original trustee).
- Industrial Trustee Shares (successor trustee).
- Diversified Trustee Shares:

- Series A.
- Series B.
- Series C.

CHEMICAL BANK AND TRUST COMPANY, New York, N. Y.:

- Low Priced Shares.
- Collateral Trustee Shares of the New England Investment Trust, Inc. (second successor trustee).

CITIZENS NATIONAL TRUST AND SAVINGS BANK, Los Angeles, Calif.:

- Commonwealth Insurance Shares:
- Series A.
- Series B.
- Series C.

CITY BANK FARMERS TRUST COMPANY, New York, N. Y.:

- Atlantic National Trust Shares, Series A (successor).
- Capital Trust Shares, Series A (successor).
- Income Trust Shares (successor).
- Integrity Trust Shares, Series A (successor).
- Seasoned Securities Trust Shares, Series A (successor).
- Supervised American Fixed Equities (successor).
- 20th Century Fixed Trust Shares (successor).
- 20th Century Fixed Trust Shares, Series B.
- United Common Trust Shares, Series A-2 (successor).
- Cumulative Trust Shares (successor).
- North American Trust Shares, 1955 (successor).
- North American Trust Shares, 1956 (successor).
- North American Trust Shares, 1958.
- Foundation Trustee Shares (successor).
- Trustee Food Shares, Series A.
- Standard Oil Trust Shares, Series A.
- Standard Oil Trust Shares, Series A.
- Standard Oil Trust Shares, Series B.
- Short Term Trust Shares, Series U (successor trustee).
- United Oil Trust Shares, Series H (first successor).

CITY BANK FARMERS TRUST COMPANY, New York, N. Y.—Continued.

United Common Trust Shares (successor trustee).

CITY NATIONAL BANK AND TRUST COMPANY, Chicago, Ill.:

Selected American Shares (second successor trustee).

Selected Income Shares (second successor trustee).

Selected Cumulative Shares (successor trustee).

Standard American Trust Shares (original trustee).

COLORADO NATIONAL BANK OF DENVER, Denver, Colo.: Nation-Wide

Securities Company, Trust Certificates, Series A.

COMMERCIAL NATIONAL BANK AND TRUST COMPANY, New York, N. Y.:

Foundation Trust Shares, Series A.

Leaders of Industry Shares, Series B.

Leaders of Industry Shares, Series C.

CONTINENTAL BANK & TRUST COMPANY OF NEW YORK, New York, N. Y.:

Bank Stock Trust Shares, Series C-2 (successor trustee).

Bank Stock Trust Shares, Series C-1 (successor trustee).

Schuyler Trust Shares.

Trust Fund Shares.

United Fixed Shares (successor trustee).

United Insurance Trust Shares (successor trustee).

United New York Bank Trust Shares (successor trustee).

Super-Corporations of America Trust Shares, Series A (successor trustee).

Super-Corporations of America Trust Shares, Series B (successor trustee).

Super-Corporations of America Trust Shares, Series AA.

Super-Corporations of America Trust Shares, Series BB.

CONTINENTAL ILLINOIS NATIONAL BANK & TRUST COMPANY, Chicago, Ill.:

National Units of America Shares (successor trustee).

Chicago Bankshares.

CORN EXCHANGE NATIONAL BANK AND TRUST COMPANY, Philadelphia, Pa.:

Railroad Investment Shares.

Union Insurance Shares (successor trustee).

DETROIT TRUST COMPANY, Detroit, Mich.:

American Mutual Trust Fund (original trustee).

Michigan Shares, Series A.

EMPIRE TRUST COMPANY, New York, N. Y.:

Associated National Shares, Series A.

Bank Stock Trust Shares, Series C-1 (original trustee).

Leverage Fixed Trust Shares.

Selected Managements Trustee Shares.

Short Term Trust Shares.

Standard Collateral Trusteed Common Stock Shares.

Tobacco Trust Shares, Series A.

Tobacco Trust Shares, Series AB—none issued.

Trustee Standard Investment Shares, Series C.

Trustee Standard Investment Shares, Series D.

Trustee Standard Utility Shares.

United Fixed Shares (original trustee).

Associated Standard Oilstocks Shares, Series A.

United Insurance Trust Shares (original trustee).

EMPIRE TRUST COMPANY, New York, N. Y.—Continued.

United New York Bank Trust Shares (original trustee).
Public Service Trust Shares, Series A.
Trusteed New York Bank Shares (successor trustee).
A B C Trust Shares, Series D.
A B C Trust Shares, Series E.
Basic Insurance Shares, Series C.
Foreign Government Bond Trust Certificates.
Associated Standard Oil Stocks, Series A (semicumulative).
Selected Managements, Inc., Certificates of Participation.
United American Trust Shares.
Universal Trust Shares.
Trustee Standard Oilshares, Series A.
Trustee Standard Oilshares, Series B.
Collateral Trustee Shares, Series A.
Canadian Bank Stock Trust Shares, Series D.
Bank Stock Trust Shares, Series C-2 (original trustee).
Trusteed New York Bank Shares.
Investment Trust Shares (successor trustee).

EQUITABLE TRUST COMPANY, New York, N. Y. (merged with The Chase National Bank of the City of New York, June 2, 1930) :

Fixed Trust Shares (original trustee).
Fixed Trust Shares, Series B (original trustee).
Basic Industry Shares (original trustee).
Fixed Trust Oil Shares (original trustee).
Corporate Trust Shares (original trustee).
Oil and Natural Gas Shares, Series A (successor trustee).

EQUITABLE TRUST COMPANY, Detroit, Mich. :

American Industries Participations Shares (successor trustee).
Automotive Participation Shares (successor trustee).
Chicago Bank Participation Shares (successor trustee).
Detroit Bank Participation Shares (successor trustee).
Old Line Insurance Shares (successor trustee).
Old Line Insurance Shares, Series B (successor trustee).
Detroit Bank Shares (second successor trustee).

FEDERAL NATIONAL BANK, Boston, Mass. (closed December 16, 1931; receiver appointed) : Collateral Trustee Shares of the New England Investment Trust (9/1/25) (original trustee).**FIDELITY BANK & TRUST COMPANY, Detroit, Mich. :**

American Industries Participation Shares (original trustee).
American Mutual Trust Fund (successor trustee).
Automotive Participation Shares (original trustee).
Chicago Bank Participation Shares (original trustee).
Detroit Bank Participation Shares (original trustee).
Old Line Insurance Shares (original trustee).
Old Line Insurance Shares, Series B (original trustee).
Union Insurance Shares, Series A.
Detroit Bank Shares (first successor trustee).

FIDELITY PHILADELPHIA TRUST CO., Philadelphia, Pa. : Combined Trust Shares of Standard Oil Group.**FIRST NATIONAL BANK OF JERSEY CITY, Jersey City, N. J. : Trust Endowment Shares, Series A (successor trustee).**

- FIRST NATIONAL BANK, Kansas City, Mo.:** Consolidated Trust Shares of Affiliated Group, Inc.
- FIRST NATIONAL BANK & TRUST COMPANY, Bridgeport, Conn.:** Home State Shares, Series A.
- FIRST NATIONAL BANK & TRUST CO. OF RACINE, Racine, Wis.:**
United Investment Shares, Series A.
United Investment Shares, Series C.
- FIRST TRUST CO. OF PHILADELPHIA, Philadelphia, Pa.:** Combined Trust Shares (of Rails, Utilities & Industrials).
- FIRST TRUST & SAVINGS BANK OF PASADENA, Pasadena, Calif.:** California Oil Investment Trust.
- FOREMEN STATE TRUST & SAVINGS BANK, Chicago, Ill. (succeeded by First Union Trust and Savings Bank, June 8, 1931):**
Republic Trust Shares, Series A (original trustee).
First Diversified Bond Trust (original trustee).
Leaders of Industry Shares, Series A.
Selected American Shares (original trustee).
Selected Income Shares (original trustee).
- FRANKLIN NATIONAL BANK, Washington, D. C.:**
Equitable Investment Trust.
Bank Stock Trust Shares, Series A.
- GUARANTY TRUST COMPANY OF NEW YORK, New York, N. Y.:**
First Custodian Shares.
Second Custodian Shares.
New York Bank Trust Shares.
North American Trust Shares, 1953.
Trusteed American Bank Shares (original series).
Trusteed American Bank Shares, Series A.
Associated Union Trust Shares, Series A.
National Industries Shares, Series B.
Bank Stock Trust Shares, Series A.
Common Stock Trust Shares, Series A (successor trustee).
- GUARDIAN TRUST COMPANY, Cleveland, Ohio (in liquidation on June 15, 1933):** Buckeye Trust Shares, Series A.
- HARRIMAN NATIONAL BANK AND TRUST COMPANY, New York, N. Y. (receiver appointed October 16, 1933):** Pioneer Trust Shares.
- HUDSON COUNTY NATIONAL BANK, Jersey City, N. J.:** United Oil Trust Shares, Series H (second successor trustee).
- ILLINOIS MERCHANTS TRUST COMPANY, Chicago, Ill. (merged with Continental National Bank and Trust Company on March 18, 1929, to form Continental Illinois National Bank and Trust Company):** National Units of American Shares (original trustee).
- INTERNATIONAL TRUST COMPANY, Denver, Colo.:** Hamilton Trust Shares.
- LIBERTY NATIONAL BANK AND TRUST COMPANY, New York, N. Y. (acquired by Harriman National Bank and Trust Company on April 8, 1932):**
Dominant Trust Shares.
Provident Trustee Shares (original trustee).
Participations in Select Standard Oils (original trustee).
Collateral Trustee Shares, (9/1/25) (successor co-trustee).
Collateral Trustee Shares, (4/16/27) (successor trustee).

MANUFACTURERS TRUST COMPANY, New York, N. Y. :

American Railway Trust Shares.

First Bond Trust Shares.

Deposited Bond Certificates, Series 1938 (successor trustee).

Trust Endowment Shares, Series A (original trustee).

Diversified Trustee Shares.

Diversified Trustee Shares, Series B.

Diversified Trustee Shares, Series C (successor trustee).

Major Corporation Shares (successor trustee).

Trusted New York City Bank Shares (original trustee).

Industrial Trustee Shares (second successor trustee).

METROPOLITAN TRUST COMPANY, Detroit, Mich. (in receivership June 20, 1931) :

Detroit Bank Shares (original trustee).

MISSISSIPPI VALLEY TRUST COMPANY, St. Louis, Mo. :

American Bank Stocks Trust Shares.

Equity Trust Shares in America.

NATIONAL BUILDERS BANK, Chicago, Ill. :

Investment Trust Shares, Series B (second successor trustee).

Standard American Trust Shares (successor trustee).

NATIONAL SECURITY AND TRUST COMPANY, Wilmington, Del. : Johnston Plan Collateral Trust Certificate.**NEW YORK TRUST COMPANY (THE), New York, N. Y. :**

Diversified Trustee Shares, Series D.

Canadian Bankstocks, Inc., Trust Certificates.

First Bank Trust Shares, Series A (Distributive).

First Bank Trust Shares, Series B (Cumulative).

OLD COLONY TRUST COMPANY, Boston, Mass. : Utilities Public Service Shares.**PACIFIC TRUST COMPANY, New York, N. Y. (merged with Manufacturers Trust Company in June 1930) : Major Corporation Shares.****PENNSYLVANIA COMPANY FOR INSURANCE ON LIVES AND GRANTING ANNUITIES, Philadelphia, Pa. :**

Deposited Insurance Shares, Series A.

Deposited Insurance Shares, Series B.

Deposited Bank Shares, N. Y.

Deposited Bank Shares, New York, Series A.

Deposited Bank Shares, Series B-1.

Independence Trust Shares.

PHILIP STATE BANK AND TRUST COMPANY, Chicago, Ill. (in receivership since June 21, 1932) : First Diversified Bond Trust (successor trustee).**SPOKANE AND EASTERN TRUST COMPANY, Spokane, Wash. : Composite Bond United Trust Certificates.****STRAUS NATIONAL BANK AND TRUST COMPANY, New York, N. Y. (merged with Continental Bank and Trust Company of New York on September 15, 1931) :**

Super-Corporations of America Trust Shares, Series A (original trustee).

Super-Corporations of America Trust Shares, Series B (original trustee).

TITLE INSURANCE AND TRUST COMPANY, Los Angeles, Calif. :

Insurance Shares Participations, Series A.

Investors Bonds Certificates, Series A.

TRUST COMPANY OF CHICAGO, Chicago, Ill.: North American Bond and Share Certificates.

TRUST COMPANY OF NEW JERSEY (THE), Jersey City, N. J.:

Trusteed American Bank Shares, Series B.

Trusteed Industry Shares.

Frontenac Trust Shares.

UNDERWRITERS TRUST COMPANY, New York, N. Y.:

Foremost Industries Trust Shares, Series A.

New Day Trust Shares, Series A.

UNION TRUST COMPANY OF MARYLAND, Baltimore, Md.:

Business Recovery Trust Shares.

Colonial Investors Shares, Series A.

UNITED STATES MORTGAGE AND TRUST COMPANY, New York, N. Y.

(merged with Chemical Bank & Trust Company on June 29, 1929) : Collateral Trustee Shares (first successor cotrustee).

WINTERS NATIONAL BANK AND TRUST COMPANY, Dayton, Ohio: Collateral Equities Trust Shares.

Trustee unknown, Hugh M. Archer & Co., sponsor, Bank Stock Trustee Shares of Columbus.

APPENDIX D

Analysis of Size and Assets of Fixed Investment Trusts ¹

This appendix surveys fixed trusts for the period from 1927 to 1935, based upon data for 49 out of the 56 fixed trusts which had total assets of \$500,000 or more at any time within the period and which filed replies to questionnaires, and upon data submitted for the smaller trusts in summary statements filed with the Commission. The discussion includes an analysis of the size of such trusts and of the concentration of their assets, classified by groups according to sponsorship.² A description of their specialization in certain types of securities or industries and an examination of their balance sheets and income accounts are also included:

1. COMPARISON OF ASSETS OF FIXED TRUSTS WITH OTHER INVESTMENT COMPANIES

Prior to 1930, fixed trusts held only a small fraction of the total assets of all investment trusts and companies. In 1930 and 1931, however, when the distribution of all other types of investment trust and investment company securities had practically ceased, sales of fixed-trust securities reached their peak. The assets of fixed trusts amounted to almost 8% of the total assets of the industry at the end of 1931 (Table D-1). Thereafter, offerings of fixed-trust securities almost ceased, but the retirement or redemption of such securities continued. At the end of 1936, the known total assets of all fixed trusts amounted only to about \$170,000,000 or 4% of the known total assets of investment trusts and investment companies.

No fixed trusts ever attained the very large size of some of the management investment companies proper or management investment-holding companies. Prior to 1930 no fixed trust had assets in excess of \$50,000,000 at any year-end; only one trust at the end of 1928 and two at the end of 1929 had total assets between \$25,000,000 and \$50,000,000. By the end of 1930, however, three trusts had total assets in excess of \$25,000,000 and two of these trusts had total assets in excess of

¹ See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, Sec. VII at 96 (House Doc. No. 70, 76th Cong.).

Fixed trusts having assets of \$500,000 or more at any time between 1927 and 1935 were requested to answer a full questionnaire; and the others were asked to submit replies to summary statements. Of the 56 trusts which submitted answers to the full questionnaire, 49 submitted sufficiently detailed information for use throughout this section. The data on the 55 trusts for which usable summary statements were submitted are included only in the total asset figures (Table D-1) and in the data on specialized and general fixed trusts (Tables D-7, D-8, and D-9). The 49 companies, which are included throughout, however, held from 75% to 90% of the estimated total assets of all fixed trusts.

² The results of the analysis of size and concentration of assets for fixed trusts are not strictly comparable to the results for all management investment companies proper as the analysis of fixed trusts includes small companies.

	Amount of total assets in millions of dollars										Percentage of total assets									
1. Management investment companies:																				
a. Management investment companies proper:																				
(1) Closed-end companies.....	554	1,440	2,632	1,796	953	765	830	818	1,044	1,261	31.4	39.3	41.6	34.8	31.6	30.7	29.8	30.3	28.7	29.0
(2) Open-end companies.....	47	128	140	106	64	75	170	211	356	506	2.7	3.5	2.2	2.1	2.1	3.0	6.1	7.8	9.8	11.6
Total, management investment companies proper.....	601	1,568	2,772	1,902	1,017	840	1,000	1,029	1,400	1,767	34.1	42.8	43.8	36.9	33.7	33.7	35.9	38.1	38.5	40.6
b. Management investment-holding companies.....	868	1,546	2,734	2,239	1,357	1,173	1,304	1,206	1,646	1,906	49.2	42.2	43.3	43.5	45.0	47.1	46.9	44.6	45.3	43.9
c. Unclassified management investment companies d.....	233	433	614	622	310	192	194	206	260	310	13.2	11.8	9.7	12.1	10.3	7.7	7.0	7.6	7.2	7.1
Total, all management investment companies.....	1,702	3,547	6,119	4,763	2,684	2,205	2,498	2,441	3,307	3,983	96.5	96.8	96.8	92.5	89.0	88.5	89.8	90.3	91.0	91.6
2. Fixed and semifixed investment trusts e.....	25	67	131	290	228	179	171	135	169	170	1.4	1.8	2.1	5.6	7.6	7.2	6.1	5.0	4.7	3.9
3. Installment investment plans.....				1	1	2	5	7	14	25						.1	.2	.2	.4	.6
4. Face amount installment certificates f.....	35	43	53	63	72	73	76	87	103	126	2.0	1.2	.8	1.2	2.4	2.9	2.7	3.2	2.8	2.9
5. Common trust funds.....	1	5	21	34	32	32	32	34	39	45	.1	.2	.3	.7	1.0	1.3	1.2	1.3	1.1	1.0
Grand total, all investment trusts and investment companies.....	1,763	3,662	6,325	5,151	3,017	2,491	2,782	2,704	3,631	4,349	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a Total assets at market value wherever available and based on consolidated balance sheets wherever there were substantial intercompany holdings of investment company securities.

^b Includes data for all investment companies the total assets of which were known to the Commission for each year the companies were in existence within the period 1927-36.

^c Includes 2 companies which were "defunct" at Dec. 31, 1935: Continental Shares, Inc. and Eastern Utilities Investing Corporation.

^d Excludes data for companies with total assets of less than \$500,000 at Dec. 31, 1935, and for "defunct" companies, except the following 4 companies which, together with the 2 included with management investment-holding companies, accounted for a substantial

part of the assets of all "defunct" companies: Corporation Securities Company of Chicago, Insull Utility Investments, Inc., Public Utilities Securities Corporation, and Swedish American Investment Corporation.

^e Excludes data for approximately 120 fixed and semifixed trusts for which comparatively little information is available. It was estimated, however, that the companies included in this table owned approximately 80 percent of the total assets of all fixed and semifixed trusts at the end of 1929 and over 90 percent of the total assets at the end of 1936.

^f Total assets are at book values adjusted to reflect only part of the appreciation or depreciation applicable thereto.

^g Estimated, as actual data not available.

TABLE D-2.—Cumulative frequency distributions of 104 ^a fixed and semifixed investment trusts classified by amount of total assets ^b at year-end.

Amount of total assets (millions of dollars)	1927		1928		1929		1930		1931		1932		1933		1934		1935		1936	
	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber	Num- ber of com- pan- ies	Per- cent of total num- ber
Greater than 100.....																				
Greater than 50.....							2	3					1							
Greater than 25.....			1	8	2	8	3	5	2	3			3		2		4	5	4	7
Greater than 10.....			2	15	3	12	6	9	9	11	6	7	10	12	8	13	17	10	16	
Greater than 5.....			4	31	7	27	9	14	12	15	11	13	17	20	15	18	20	20	28	
Greater than 2.5.....	2	22	5	38	8	31	12	18	18	23	29	35	29	34	21	25	25	33	25	41
Greater than 1.0.....	6	67	5	38	12	46	16	25	30	38	38	46	38	45	34	41	37	49	36	59
Greater than 0.5.....	8	89	6	46	13	50	21	32	35	44	57	69	61	72	58	70	58	76	52	85
Greater than 0.1.....	8	89	10	77	23	88	47	72	53	67	83	100	85	100	83	100	76	100	61	100
Greater than 0.....	9	100	13	100	26	100	65	100	79	100										

^a Includes 49 trusts filing questionnaires (see note a, table D-5, infra), and 55 trusts filing summary statements (see note b, table D-7, infra).

^b At market values, wherever available.

\$50,000,000, but less than \$100,000,000. At the end of 1931 no fixed trust had total assets in excess of \$50,000,000, and only two trusts had total assets in excess of \$25,000,000. At no year-end in the period from 1932 to 1936, except 1933, did any fixed trust have assets in excess of \$25,000,000 (Table D-2).

2. SIZE OF INDIVIDUAL TRUSTS

The total assets of fixed trusts which had assets in excess of \$10,000,000 at any year-end during the period 1927-1936 are presented for each year in Table D-3. The data clearly indicate that the size of the 14 trusts included fluctuated widely with little consistency of movement. This behavior, arising from the continuous offering and redemption of the certificates of these trusts, is in contrast with the experience of the large closed-end management investment companies proper which in general showed fewer changes in size ranking during the period. This lack of consistency, more pronounced even than that noted for open-end management investment companies proper, is indicated by North American Trust Shares, 1953, and Corporate Trust Shares, Original Series, which dominated the field in 1930, but which were of comparatively negligible importance in 1936.

TABLE D-3.—Total assets ^a at year-ends of 14 fixed and semifixed investment trusts having assets of \$10,000,000 or more—companies listed according to maximum size of total assets, 1927-35

Name of trust	Size of total assets in millions of dollars								
	1927	1928	1929	1930	1931	1932	1933	1934	1935
North American Trust Shares, 1953.....			33.0	96.3	32.3	5.2	5.0	3.7	4.2
Corporate Trust Shares (Original Series).....			7.9	74.7	25.3	3.3	2.9	2.2	2.4
United States Electric Light & Power Shares, Inc., Trust Certificates, Series A ^b	7.5	35.8	36.8	27.3	15.3	10.5	7.0	5.4	7.5
North American Trust Shares, 1956.....					12.4	21.2	25.1	20.0	23.2
North American Trust Shares, 1955.....					10.9	19.7	24.1	19.5	22.2
Diversified Trustee Shares, Series B ^c		6.1	20.1	7.8	3.8	1.4	1.4	1.0	1.1
Diversified Trustee Shares, Series C ^d			6.4	18.7	12.0	9.2	9.7	8.1	9.7
United States Electric Light & Power Shares, Inc., Trust Certificates, Series B.....				13.0	17.6	13.6	7.1	3.4	5.3
Super-Corporations of America Trust Shares, Series A ^e				10.8	15.9	1.6	1.1	.6	.7
Corporate Trust Shares, Accumulative Series and Accumulative Series (Modified).....					10.3	14.7	12.1	7.9	8.6
Corporate Trust Shares, Series AA and Series AA (Modified).....					9.2	12.3	9.1	5.6	5.9
Diversified Trustee Shares, Series D ^f					3.5	5.9	9.3	7.1	10.3
Deposited Insurance Shares, Series A.....				.1	.4	1.5	2.4	5.4	10.2
Fixed Trust Shares (Original Series).....	2.6	10.1	5.0	2.9	1.3	.9	1.2	.9	1.1

^a At market values.

^b Data as of November 30.

^c Data as of September 15.

^d Data as of December 15.

^e Data as of October 31.

^f Data as of March 31 of succeeding year.

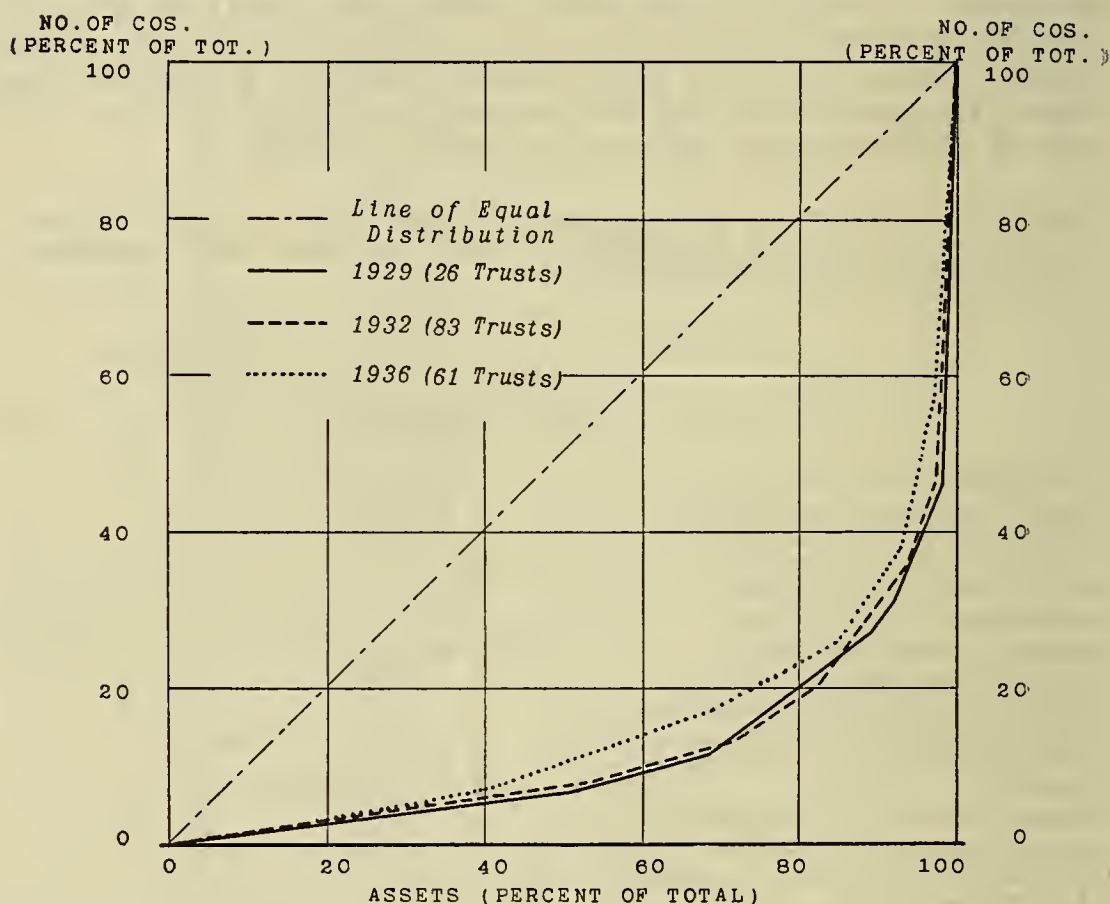
The rapid growth which characterized some fixed trusts in certain years reflected principally the results of selling campaigns by the sponsors. The rapid shrinkage which occurred later was occasioned

primarily by redemptions of certificates surrendered by investors. These redemptions were encouraged by the efforts of distributors, often the sponsors of the trusts themselves, to induce certificate holders to switch in the early part of the period studied to other fixed trusts, and later to open-end management investment companies proper.

3. CONCENTRATION OF ASSETS AMONG FIXED TRUSTS

The total assets held by fixed trusts have always been concentrated to a very high degree in a relatively small number of trusts (Table D-4 and Chart D-I). The analysis of the 104 trusts included in Table

CHART D-I
CONCENTRATION OF ASSETS IN FIXED
AND SEMI-FIXED INVESTMENT TRUSTS



D-1 shows that in 1929, the first year in which the total assets of fixed trusts reached \$100,000,000 or more, two trusts had 53% of the total assets and in 1932, six trusts held 51% of the total assets. At the end of 1936, the four largest trusts held 40% of the total assets of the group, which represented an appreciable decline in concentration from the 1930 peak. The 10 largest trusts, each of which had assets of over \$5,000,000 at the end of 1936, held an aggregate of 65% of the total assets of the fixed trusts included in Tables D-1 and D-4.

This indicated concentration of assets of fixed trusts does not fully reflect the concentration of control of fixed trust funds because very often the same person or firm sponsored more than one fixed trust.

TABLE D-4.—*Concentration of assets in 104^a fixed and semifixed investment trusts—Comparison of percentage of total assets^b and total number of companies, classified by amount of total assets, 1927-36*

	1927		1928		1929		1930		1931		1932		1933		1934		1935		1936	
	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	Per- cent of total assets	Per- cent of total num- ber of com- pan- ies	
Amount of total assets (millions of dollars)																				
Greater than 100.....																				
Greater than 50.....																				
Greater than 25.....																				
Greater than 10.....																				
Greater than 5.....																				
Greater than 2.5.....																				
Greater than 1.0.....																				
Greater than 0.5.....																				
Greater than 0.1.....																				
Greater than 0.....																				
Total number o companies.....	9		13		26		65		79		83		85		83		76		61	

^a Includes 49 trusts filing questionnaires and 55 trusts filing summary statements.^b At market values, wherever available.

To indicate the actual degree of concentration of control of the funds of fixed trusts, the total assets of the 49 trusts with assets of more than \$500,000 at some time during the period 1927 to 1935 have been grouped by sponsors,³ each sponsor being credited with the combined total assets of the large fixed trusts sponsored by it (Table D-5 and

TABLE D-5.—Total assets at year-ends of 49^a fixed and semifixed investment trusts with total assets^b of \$500,000 and over at any time, classified by sponsor groups, 1927-35

Name of sponsor ^c	1927	1928	1929	1930	1931	1932	1933	1934	1935
Amount of total assets in millions of dollars									
Calvin Bullock.....	10.5	39.4	38.8	47.7	42.6	32.7	21.3	11.8	16.4
Massachusetts Distributors, Inc.....	5.4	15.3	33.7	30.3	21.4	17.1	20.5	16.2	20.8
Maryland Sponsors, Inc.....	2.7	10.5	19.1	82.3	48.6	32.6	26.7	17.6	19.2
Distributors Group, Inc.....			33.0	98.3	59.5	50.5	62.5	53.3	64.6
Bank and Insurance Shares, Inc. ^d			2.0	3.1	2.0	3.8	5.2	9.5	19.1
Lord, Abnett & Co., Inc.....				17.4	25.2	14.9	6.9	4.0	3.7
Other sponsors.....			1.6	5.6	17.8	17.4	18.8	15.5	19.1
Total.....	18.6	65.2	128.2	284.7	217.1	169.0	161.9	127.9	162.9
Percentage of total assets									
Calvin Bullock.....	56.5	60.4	30.2	16.7	19.6	19.4	13.2	9.2	10.1
Massachusetts Distributors, Inc.....	29.0	23.5	26.3	10.6	9.9	10.1	12.7	12.7	12.8
Maryland Sponsors, Inc.....	14.5	16.1	14.9	29.0	22.4	19.3	16.5	13.8	11.8
Distributors Group, Inc.....			25.7	34.5	27.4	29.9	38.6	41.7	39.7
Bank and Insurance Shares, Inc. ^d			1.6	1.1	.9	2.2	3.2	7.4	11.7
Lord, Abnett & Co., Inc.....				6.1	11.6	8.8	4.3	3.1	2.3
Other sponsors.....			1.3	2.0	8.2	10.3	11.5	12.1	11.6
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Assets expressed as relatives, 1930=100									
Calvin Bullock.....	22.0	82.8	81.5	100.0	89.5	68.7	44.7	24.8	34.4
Massachusetts Distributors, Inc.....	17.8	50.5	111.2	100.0	70.6	56.4	67.6	53.5	68.6
Maryland Sponsors, Inc.....	3.3	12.8	23.2	100.0	59.0	39.6	32.4	21.4	23.3
Distributors Group, Inc.....			33.6	100.0	60.5	51.4	63.6	54.2	65.7
Bank and Insurance Shares, Inc. ^d			64.5	100.0	64.5	122.6	167.7	306.4	616.1
Lord, Abnett & Co., Inc.....				100.0	145.4	85.6	39.6	23.0	21.3
Other sponsors.....			30.4	100.0	317.8	310.7	335.7	276.8	341.1
Total.....	6.5	22.9	45.0	100.0	76.3	59.4	56.9	44.9	57.2

^a Includes North American Bond Trust and Keystone Custodian Funds, Series B-3 and E-2, which filed fixed-trust questionnaires. Corporate Trust Shares, Series AA and AA (Modified), are counted as one trust, and Corporate Trust Shares, Accumulative Series and Accumulative Series (Modified) as one trust.

^b At market values.

^c The sponsor of a fixed or semifixed trust is, for the purpose of this table, the firm or company controlling the trust. Such control may be direct, as in cases where the depositor itself is the sponsor, or indirect, as in cases where the sponsor has a controlling interest in the depositor corporation. Individuals controlling sponsoring corporations, whether such sponsors are depositors or not, are not included in this table.

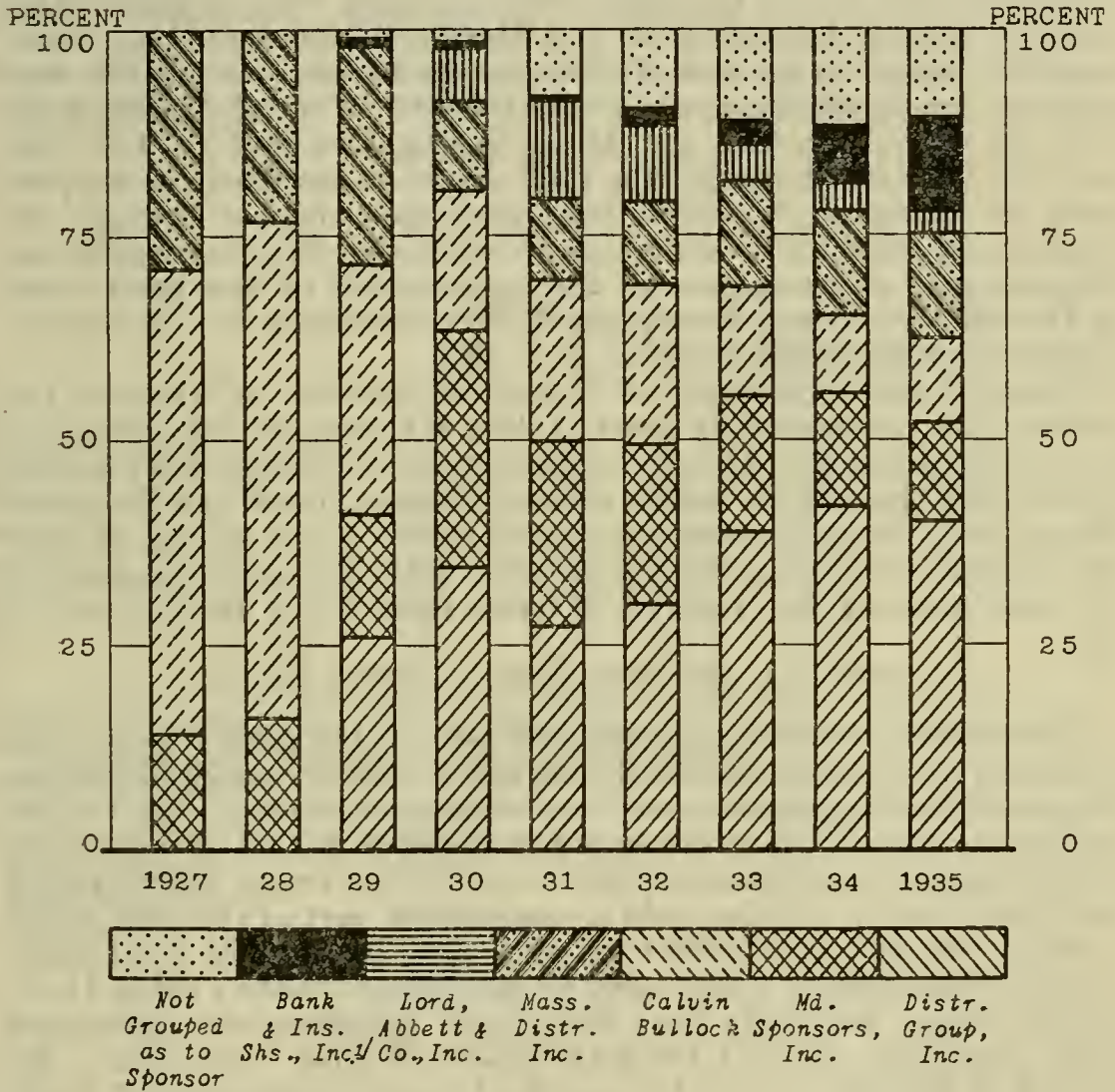
^d Changed name to Transcontinent Shares Corporation.

³ For the purpose of this analysis the group directly or indirectly in control of the trust at the end of 1935 was considered the sponsor.

Chart D-II). The leading sponsor at each year-end accounted for between 27% and 60% of the total assets of the 49 fixed trusts. After 1928, the aggregate assets of the trusts of the two largest sponsors varied from 49% to 64% of the total. After 1929, when the fixed trust movement was fully developed, the total assets of fixed trusts

CHART D-II.

PERCENTAGE DISTRIBUTION OF TOTAL ASSETS AT YEAR-ENDS
49 FIXED AND SEMI-FIXED INVESTMENT TRUSTS
CLASSIFIED BY SPONSOR GROUPS
1927 - 1935



1/ Changed name to Transcontinent Shs. Corp.

sponsored by Distributors Group, Incorporated, never were less than about 25% of the group total and averaged almost 40% of the total from 1933 to 1935. Maryland Sponsors, Inc., the total assets of whose fixed trusts ranked second in 1930, 1931, 1933, and 1934 and third in 1932 and 1935, accounted for almost 30% of the total in 1930. Its share, however, had declined to about 12% by the end of 1935. The trusts sponsored by Calvin Bullock and Massachusetts Distributors,

Inc., which were predominant prior to 1929, represented 10% and 13%, respectively, of the total at the end of 1935. Thus, the trusts sponsored by these four sponsors held at each year-end at least 75% of the total assets of the 49 companies and about 70% of the total known assets of all fixed trusts included in Table D-1.

Sharp changes in the relative position of these four sponsors occurred within the period. The assets of the fixed trusts sponsored by Calvin Bullock and by Massachusetts Distributors, Inc., which were among the first organizers of fixed trusts, constituted a substantial part of the total assets of fixed trusts, during the years 1927, 1928, and 1929, but declined considerably in later years, when competitors entered the field. During 1930, when almost 40% of all fixed trust certificates sold during the entire period studied were marketed, Distributors Group, Incorporated, and Maryland Sponsors, Inc., dominated the field. At the end of 1930, the fixed trusts of these two new sponsors had aggregate assets of \$180,000,000, while the trusts sponsored by Calvin Bullock and Massachusetts Distributors, Inc., had only \$78,000,000. Although the total assets of the fixed trusts sponsored by Maryland Sponsors, Inc., were soon reduced through the fall in stock prices and redemption of certificates, this diminution was offset, in part at least, through the organization of new fixed trusts by Distributors Group, Incorporated, which obtained in this manner an even more dominant position after 1932.

The total assets of trusts of Super-Corporations of America Depositors, Inc., sponsored by Lord, Abbett & Company, Inc. (successor to S. W. Straus & Co., Inc., the organizers of the trusts) have shrunk most among those of the larger sponsor groups. Bank and Insurance Shares, Inc., the only sponsor to continue the active selling of fixed trust shares directly to the public after 1933, increased its share in the total assets of the group of 49 trusts from 3% in 1933 to 12% in 1935.

4. GENERAL AND SPECIALIZED FIXED TRUSTS

The majority of all fixed trusts have been of the general type, their portfolios consisting of stocks of companies in all the major industries. Moreover, their aggregate assets have constituted the major part of the total assets of all fixed trusts, except in the early period of the growth of this type of trust when one or two specialized trusts, concentrating their portfolios in utilities, held a considerable part of the total assets.

At no year end since 1930 have more than 28% of the total assets of the 49 large fixed trusts been in specialized trusts (Table D-6). In 1927, there were only four fixed trusts including one specialized trust which held 40% of the total assets of these four trusts. By the end of 1929, there were 14 large fixed trusts in existence, of which five were specialized. However, these five specialized trusts held only 32% of the total assets of all large fixed trusts. The ratio of assets of specialized trusts to total assets of all large fixed trusts increased from 16% at the end of 1933 to 27% at the end of 1935 due chiefly to the growth of the trusts sponsored by Bank and Insurance Shares, Inc.,⁴ which specialized in bank and insurance company stocks. The trusts sponsored by Bank and Insurance Shares, Inc., sold a large volume of their certificates in the years 1933 to 1935. Over the same

⁴ Name changed to Transcontinent Shares Corporation, December 14, 1936.

period, the sales of shares of most other fixed trusts directly to the public were at a standstill and redemptions were reducing the size of their funds.

With respect to the 55 small trusts for which annual total assets could be ascertained from summary statements, after 1930 specialized trusts accounted for between 10% and 20% of the total assets of all these trusts, although they represented between 25% and 35% of the total number (Table D-7).

Of all the specialized trusts, large and small, those specializing in the stocks of banks, insurance companies, and oil companies and in bonds, were relatively the most numerous, accounting in the aggregate for nearly 80% of the total number of all of the specialized trusts (Table D-8). However, as of December 31, 1930, the two fixed

TABLE D-6.—*Total assets at year-ends of 49 fixed and semifixed investment trusts with maximum total assets at any time of \$500,000 and over, classified by type, 1927-35*

[Amounts in millions of dollars]

Year	Number of trusts		Total assets			
	General ^a	Specialized ^b	Amount		Percent of total	
			General	Specialized	General	Specialized
1927.....	3	1	11.1	7.5	60	40
1928.....	5	1	29.4	35.8	45	55
1929.....	9	5	87.7	40.5	68	32
1930.....	18	9	239.2	45.5	84	16
1931.....	29	9	180.2	36.9	83	17
1932.....	32	10	137.7	31.3	76	24
1933.....	34	13	136.2	25.7	84	16
1934.....	35	13	101.5	26.4	79	21
1935.....	35	14	119.1	43.8	73	27

^a Corporate Trust Share, Series AA and AA (Modified) are counted as one trust, and Corporate Trust Shares, Accumulative Series and Accumulative Series (Modified) as one.

^b Includes North American Bond Trust and Keystone Custodian Funds, Series B-3 and E-2, which filed fixed trust questionnaires.

TABLE D-7.—*Number and approximate total assets ^a at year-ends of 55 general and specialized fixed and semifixed investment trusts filing summary statements, ^b 1927-35*

Year	Number of trusts			Total assets (in thousands of dollars)		
	39 general trusts	16 specialized trusts	All 55 trusts	39 general trusts	16 specialized trusts	All 55 trusts
1927.....	3	2	5	5,190	1,451	6,641
1928.....	5	2	7	570	1,104	1,674
1929.....	9	3	12	1,564	842	2,406
1930.....	30	5	38	4,575	1,092	5,668
1931.....	29	12	41	9,458	1,240	10,698
1932.....	28	13	41	7,848	1,965	9,814
1933.....	25	13	38	7,400	1,893	9,292
1934.....	23	12	35	5,606	1,250	6,856
1935.....	18	9	27	4,804	885	5,689

^a At market value, wherever available.

^b 46 trusts did not have assets of \$500,000 or more at any time between 1927 and 1935; whereas 9 trusts had assets of \$500,000 or more at some time within this period.

trusts specializing in utility stocks accounted for 87% of the total assets of the large specialized trust group, thus greatly exceeding in assets any other group of specialized fixed trusts on that date (Table D-9). Thereafter, the importance of the fixed trusts specializing in utilities steadily declined. At December 31, 1935, these trusts held only 29% of the total assets of the specialized group and were approximately equal in relative importance to trusts specializing in bank stocks, in insurance stocks, or in bonds, each of which types had from 20% to 25% of the total assets of the group. The rise in relative importance of each of the types of trusts specializing in bank stocks, in insurance stocks, or in bonds is attributable to the growth in each case, of a single trust.

TABLE D-8.—*Number of specialized fixed and semifixed investment trusts, classified by field of specialization*

Field of specialization	Trusts filing questionnaires ^a	Trusts filing summary statements ^b	All others	Total
Bank stocks.....	6	2	16	24
Bonds.....	3	3	14	20
Oil stocks.....	2	4	8	14
Insurance stocks.....	1	3	9	13
Utility stocks.....	2	1	3	6
Local stocks.....			3	3
Railroad stocks.....			3	3
Investment trust stocks.....		2		2
Tobacco stocks.....		1		1
Food stocks.....			1	1
Automotive stocks.....			1	1
Chain-store stocks.....			1	1
Total.....	14	16	59	89

^a Trusts which had assets of \$500,000 or more at some time between 1927 and 1935.

^b 13 trusts did not have assets of \$500,000 or more at any time between 1927 and 1935, whereas 3 trusts had assets of \$500,000 or more at some time within this period.

TABLE D-9.—*Number and total assets at year-ends of 30 specialized fixed and semifixed investment trusts,^a classified by field of specialization, 1930 and 1935^b*

[Amounts in thousands of dollars]

Field of specialization	Dec. 31, 1930		Dec. 31, 1935	
	Number of companies	Amount of total assets	Number of companies	Amount of total assets
Utility stocks.....	2	40,348	3	12,875
Bank stocks.....	6	4,539	8	11,116
Insurance stocks.....	2	146	2	10,337
Bonds.....			4	8,865
Oil stocks.....	6	1,449	3	1,138
Investment company stocks.....	1	140	2	521
Tobacco stocks.....			1	1
Total.....	17	46,622	23	44,853

^a At market values, wherever available.

^b 14 trusts filed questionnaires and 16 filed summary statements. Of these 30 trusts, 13 did not have assets of \$500,000 or more at any time between 1927 and 1935; whereas 17 had assets of \$500,000 or more at some time within this period.

APPENDIX E

Specimen of Trust Agreement For Fixed Trusts

The trust agreement creating Corporate Trust Shares (Original Series) dated January 2, 1929, has been selected as a typical trust agreement of the earlier period. This instrument is set out here merely for illustrative purposes, and its selection for use is not to be construed as an indication that the Commission regards the instrument as either satisfactory or unsatisfactory, either as to form or as to content.

TRUST AGREEMENT

**AMERICAN DEPOSITOR CORPORATION, DEPOSITOR and
THE EQUITABLE TRUST COMPANY OF NEW YORK
TRUSTEE**

DATED AS OF JANUARY 1, 1929

**THE CHASE NATIONAL BANK OF THE CITY OF NEW
YORK, SUCCESSOR TRUSTEE**

**BEARER CERTIFICATES FOR CORPORATE TRUST SHARES IN COMMON
STOCK OF 28 COMPANIES**

Trust agreement, dated as of the first day of January 1929 between AMERICAN DEPOSITOR CORPORATION, a corporation duly organized and existing under the laws of the State of New York, as depositor (hereinafter called the Depositor), party of the first part, THE EQUITABLE TRUST COMPANY OF NEW YORK, a trust company duly organized and existing under the Banking Law of the State of New York, as trustee (hereinafter called the Trustee), party of the second part, and THE BEARERS FROM TIME TO TIME OF THE CERTIFICATES FOR CORPORATE TRUST SHARES hereinafter described, issued and to be issued hereunder (hereinafter sometimes called the Certificates), who become parties hereto by taking or holding Certificates, parties of the third part:

WHEREAS, the Depositor simultaneously with the execution of this Agreement, namely on June 6, 1929, has deposited with the Trustee, shares of common stock as follows:

Name of corporation:	Number of shares	Aggregate par value
The Atchison, Topeka & Santa Fe Ry. Co.....	4	\$400
Illinois Central R. R. Co.....	4	400
Louisville & Nashville R. R. Co.....	4	400
The New York Central R. R. Co.....	4	400
The Pennsylvania R. R. Co.....	4	200
Southern Pacific Co.....	4	400
Union Pacific R. R. Co.....	4	400
Standard Oil Co. of California.....	4	No par value
Standard Oil Co. of Indiana.....	4	100
Standard Oil Co. (N. J.).....	4	100
Standard Oil Co. of New York.....	4	100
The Texas Corporation.....	4	100
American Radiator Co.....	4	100
The American Tobacco Co. (class B).....	4	200
E. I. du Pont de Nemours & Co.....	4	80
Eastman Kodak Co. of New Jersey.....	4	No par value
Ingersoll-Rand Co.....	4	No par value
International Harvester Co.....	4	No par value
National Biscuit Co.....	4	100
Otis Elevator Co.....	4	200
United Fruit Co.....	4	No par value
United States Steel Corporation.....	4	400
F. W. Woolworth Co.....	4	100
American Telephone and Telegraph Co.....	4	400
Consolidated Gas Co. of New York.....	4	No par value
General Electric Co.....	4	No par value
Westinghouse Electric & Manufacturing Co.....	4	200
The Western Union Telegraph Co.....	4	400

(such shares of stock being hereinafter referred to as a Stock Unit), together with \$1,000 in cash and an additional sum in cash equal to the amount of cash and the market value of all other property (in

addition to a Stock Unit) which the Trustee would have held at the date of such deposit if this Agreement had been executed at the opening of business on January 1, 1929, and if at such time there had been deposited with the Trustee hereunder \$1,000 in cash and a unit of shares of common stock identical with such Stock Unit except for the substitution, for shares of common stock of a constituent company listed above as part of the Stock Unit which shall have been issued on or after January 1, 1929, upon the reclassification of the common stock of such constituent company, of 4 shares of common stock of such constituent company as constituted on January 1, 1929, all as hereinafter more particularly described, with power hereinafter expressed, to hold, manage, and apply the same for the benefit of the Depositor and other subsequent bearers of Certificates under and subject to the terms and conditions of this Trust Agreement (hereinafter sometimes called the Agreement), and the Trustee has issued to the Depositor Certificates representing the ownership of an aggregate of 2,000 undivided $1/2,000$ th interests of the face value of \$10 each (each such interest being hereinafter termed a Corporate Trust Share) in a Stock Unit and the cash and other property from time to time held by the Trustee hereunder applicable to 2,000 Corporate Trust Shares; and

WHEREAS, the Depositor proposes, from time to time, to deposit with the Trustee, with power to hold, manage and apply as aforesaid, additional Stock Units, each accompanied by cash equal to the proportionate amount of cash, and by property equivalent to the proportionate amount of any other property (in addition to Stock Units) then held by the Trustee applicable to 2,000 Corporate Trust Shares then outstanding, and also accompanied by cash equal to all cash dividends and the market value (as hereinafter defined) of all other dividends and rights distributable on or after the date of such deposit, with respect to shares of stock so deposited, to the holders of record thereof on a date prior to such deposit, against each of which Stock Units and accompanying cash and other property the Trustee is to issue Certificates representing a total of 2,000 Corporate Trust Shares; and

WHEREAS the Certificates, and the coupons to be attached to the Certificates, the legends to be set forth on the reverse of the Certificates, and the ownership certificate to be set forth on the reverse of such coupons are to be substantially in the following forms, respectively, with appropriate variations, insertions, and omissions:

[FORM OF CERTIFICATE]

UNITED STATES OF AMERICA

STATE OF NEW YORK

AMERICAN DEPOSITOR CORPORATION

Incorporated under the laws of the State of New York.

Certificate Number

Number of Corporate Trust
Shares

Bearer Certificate for Corporate Trust Shares in Common Stock
of the Within-Mentioned Companies Issued by The Equitable Trust
Company of New York, Trustee

THIS CERTIFIES that the bearer hereof is the owner of -----
Corporate Trust Shares of the face value of \$10 each, each Corporate
Trust Share representing one 1/2000th interest in (1) a Stock Unit,
consisting, as of the date specified on the reverse hereof, of the number
of shares of common stock of the companies specified on the reverse
hereof, held by the undersigned, The Equitable Trust Company, of
New York, as Trustee, under the terms and conditions of the Trust
Agreement hereinafter mentioned, and (2) the proportion of the
Reserve Fund and other property, which from time to time also may
be held by said Trustee under said Trust Agreement, applicable to
the Corporate Trust Shares represented hereby, as further described
below.

This Certificate is a Corporate Trust Share Certificate issued under
a Trust Agreement (hereinafter referred to as the Agreement) dated
as of January 1, 1929, to which American Depositor Corporation
(hereinafter referred to as the Depositor), The Equitable Trust Com-
pany of New York, as Trustee (hereinafter referred to as the Trustee),
and the bearers for the time being of this and other Corporate Trust
Share Certificates are parties. Upon the execution of the Agreement,
the Depositor deposited with the Trustee thereunder a Stock Unit as
constituted on June 6, 1929, and \$1,000 in cash as a Reserve Fund
therefor, and an additional sum in cash equal to the amount of cash
and the market value of all other property (in addition to a Stock
Unit) which the Trustee would have held at the date of such deposit
if the Agreement had been executed at the opening of business on
January 1, 1929, and if at such time there had been deposited with the
Trustee thereunder \$1,000 in cash and a unit of shares of common stock
identical with such Stock Unit except for the substitution, for shares
of common stock of a constituent company forming part of such Stock
Unit which shall have been issued on or after January 1, 1929, upon
the reclassification of the common stock of such constituent company,
of 4 shares of common stock of such constituent company as consti-
tuted on January 1, 1929, all as more particularly described in the
Agreement, and the Trustee issued Corporate Trust Share Certificates
representing a total of 2,000 Corporate Trust Shares. The Agreement
provides that upon the deposit by the Depositor with the Trustee at
any time and from time to time of an additional Stock Unit accom-
panied by cash and other property as required by the Agreement, the
Trustee shall issue to the Depositor Corporate Trust Share Certifi-
cates for a total of 2,000 Corporate Trust Shares.

The bearer hereof is entitled to receive as a distribution, semi-
annually, on the 30th day of June and the 31st day of December in
each year until the surrender of this Certificate or until ninety days
after the termination of the Agreement, but only on presentation and
surrender at the principal office of the Trustee, in the Borough of
Manhattan, City and State of New York, or at any paying agency
designated by the Trustee, of the coupons appurtenant hereto as they
shall severally mature, with the ownership certificates on the reverse

of said coupons duly executed, and only out of currently distributable funds (as in the Agreement defined) available for the purpose and the then existing Reserve Fund (as in the Agreement defined), a sum equal to 35 cents for each Corporate Trust Share represented hereby, such sum being subject to decrease or increase as follows: A—if such total currently distributable funds available for the purpose, together with such Reserve Fund, shall be less than 35 cents for each outstanding Corporate Trust Share, the amount payable on the date for payment of such coupon with respect to each of the Corporate Trust Shares represented hereby shall be reduced by the amount of the deficiency applicable to each Corporate Trust Share represented hereby; or B—if such total currently distributable funds available for the purpose shall exceed 35 cents for each outstanding Corporate Trust Share, the amount so payable shall be increased by a sum equal to the portion of such excess applicable to each Corporate Trust Share represented hereby. Each bearer hereof by accepting this Certificate agrees that if on any coupon payment date the then existing Reserve Fund applicable to the Corporate Trust Shares represented hereby shall be less than 50 cents for each such Corporate Trust Share, and the amount payable as provided in the foregoing clause B on the coupon appurtenant hereto maturing on said date shall exceed 35 cents for each such Corporate Trust Share, he will pay to the Trustee at the time and place of payment of such coupon, but only out of the excess of such payment over 35 cents per Corporate Trust Share, so far as the same shall suffice, a sum which added to the portion of the then existing Reserve Fund applicable to the Corporate Trust Shares represented hereby shall equal 50 cents for each such Corporate Trust Share. As provided in the Agreement, currently distributable funds shall be taken to mean cash dividends and the net cash proceeds when received of stock dividends, subscription rights, shares of stock and other securities (not required to be held in lieu of part of Stock Units) or other property issued or distributed in respect of Stock Units and of any other securities, less deductible charges, and any interest allowed by the Trustee as hereinafter set forth; the Trustee may deduct therefrom all taxes and other governmental charges, if any, with respect to such Stock Units or other property or income therefrom, under any present or future law of the United States of America or of any other taxing authority therein.

The bearer of any Corporate Trust Share Certificate or Certificates, at his option, at any time before the termination of the Agreement or within ninety days thereafter, may surrender the same with all unmatured coupons appertaining thereto at said office of the Trustee, and thereupon within three days (excluding days on which the New York Stock Exchange is closed) will be entitled to receive the portion of the Stock Units and of any cash and other property then held by the Trustee applicable to the Corporate Trust Shares represented thereby, any fractional interests in securities or any other property to be adjusted in cash as provided in the Agreement; provided, however, that if the number of Corporate Trust Shares represented by such Certificate or Certificates shall not be evenly divisible by 2,000, so that the Trustee is required to deliver a part of a Stock Unit with respect to any of such Corporate Trust Shares, then (a) the Depositor shall have the option to purchase such part of a Stock Unit

and any cash and other property deliverable therewith by paying to such bearer a sum equal to such cash and the market value of such part of a Stock Unit and other property (as in the Agreement defined) on the day next succeeding the date of such surrender (excluding any day on which the New York Stock Exchange is closed), and (b) as a service charge, such bearer shall pay to the Depositor if such option be exercised, or to The Equitable Trust Company of New York if such option be not exercised, a sum equal to 50 cents for each of the Corporate Trust Shares with respect to which such bearer is so entitled to receive a fractional part of a Stock Unit.

The Agreement shall terminate, in any event, on December 31, 1953. At any time at or before the expiration of the period of ninety days after the termination of the Agreement the bearers of Corporate Trust Share Certificates may surrender the same and receive their respective proportions of Stock Units and cash and other property or cash alone, all as hereinabove set forth. After the expiration of such period of ninety days, the Trustee shall proceed to sell all Stock Units and other property then held by it hereunder and such sales shall be completed in thirty days, and thereafter, upon presentation and surrender at said office of the Trustee of this Certificate with all coupons maturing more than ninety days after the termination of the Agreement, the bearer hereof will be entitled to receive in cash the portion of the net cash proceeds of such sales and any other cash then held by the Trustee applicable to the Corporate Trust Shares represented hereby.

Each bearer of this Certificate, by acceptance hereof, becomes a party and assents to all the provisions of the Agreement, a copy of which is on file at said office of the Trustee, to which reference is hereby made for (a) a statement of the rights of the bearer hereof and of the Depositor and the rights and duties of the Trustee, (b) provisions regarding a Stock Unit in the event of the reorganization, recapitalization, consolidation, merger, or dissolution, or sale of all or substantially all of the assets, of a company, stock of which is a part of a Stock Unit, and (c) the terms and conditions on which the Stock Units, cash and other property deposited with the Trustee are to be held and applied. The bearer hereof shall have no right to vote or consent in respect of the shares of stock held by the Trustee under the Agreement. The Trustee may hold all moneys as a general deposit and each bearer hereof by acceptance hereof expressly waives the requirements of any rule of law or statute now or hereafter in force regarding the investment of trust funds. The Trustee will allow interest as provided in the Agreement on all moneys from time to time on deposit with it as a Reserve Fund (as in the Agreement defined); but will not allow interest on any other moneys held by it, either before or after the date fixed for termination of the Agreement.

This Certificate is issued in the State of New York and represents the right to receive securities in certain events as provided herein and in the Agreement; and this Certificate is issued upon the following terms and conditions, to all of which each bearer hereof consents and agrees: (a) This Certificate and all rights and obligations hereunder and all provisions hereof shall be governed by the laws of the State of New York; (b) title to this Certificate and all rights and interests represented hereby may be transferred and assigned by delivery

hereof in the same manner as a negotiable instrument payable to bearer; (c) any person in possession of this Certificate, regardless of the manner in which he shall have acquired possession, is hereby authorized to represent himself as absolute owner hereof and is hereby granted power to transfer absolute title hereto by delivery hereof to a bona fide purchaser, that is, to any one who shall purchase this Certificate for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against his transferor; (d) every prior taker or owner waives and renounces all of his equities or rights in this Certificate in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title to this Certificate and to all rights represented hereby; and (e) the Trustee may treat the bearer of this Certificate as absolute owner hereof for all purposes without being affected by any notice to the contrary.

This Certificate shall not be valid when held by any person other than the Depositor unless countersigned by the Depositor to evidence the assignment and the transfer by the Depositor of its rights and interests as a bearer hereof and its assent to the provisions hereof, but the Depositor shall have no obligation, duty or liability of any nature to the bearer hereof by reason of such countersignature or otherwise.

IN WITNESS WHEREOF, THE EQUITABLE TRUST COMPANY OF NEW YORK has caused this Certificate to be signed in its name by an authorized officer, and has caused to be attached hereto coupons bearing a facsimile of the signature of its Treasurer, all as of -----

THE EQUITABLE TRUST COMPANY OF NEW YORK,
Trustee.

By -----,
Authorized Officer.

Countersigned:

AMERICAN DEPOSITOR CORPORATION,
Depositor.

By -----
Vice President.
Assistant Treasurer.
Agent.

[FORM OF FACE OF COUPON]

On the ----- day of -----, -----, unless the Trust Agreement hereinafter mentioned shall have been terminated for more than ninety days, upon surrender of this coupon with the ownership certificate on the reverse hereof duly executed, The Equitable Trust Company of New York, Trustee, will pay and distribute to bearer, at its principal office in the Borough of Manhattan, City and State of New York, or at any paying agency designated by the Trustee, out of the funds available for the purpose then on deposit with said Trustee, \$-----, being the sum of 35 cents for each Corporate Trust Share represented by American Depositor Corporation Corporate Trust Share Certificate No. -----, as a semi-annual distribution with respect to said Corporate Trust Shares, subject, however, to decrease or increase and any payments from any

such increase to be made by the bearer, all as provided in the Trust Agreement referred to in said Certificate.

The Trustee may treat the bearer of this coupon as absolute owner hereof for all purposes without being affected by any notice to the contrary.

THE EQUITABLE TRUST COMPANY OF NEW YORK,

Trustee.

By -----,

Treasurer.

[FORM OF BACK OF COUPON]

Ownership Certificate for purposes of U. S. Internal Revenue

(Address and signature must be legible)

This certifies that the payment represented by this coupon is received by the bearer for the account of the undersigned, who resides at -----, -----, -----.

(Street)

(City)

(State)

(Signature)

[FORMS OF LEGENDS FOR BACK OF CERTIFICATE]

The Stock Unit referred to herein, as of -----, consisted of:

Name of Company	Number of Shares of Common Stock	Aggregate Par Value
-----------------	-------------------------------------	------------------------

Bearers of Corporate Trust Shares may be required to return for U. S. Income Tax purposes the proportion of the annual income of the Trustee applicable to such Shares, and statements with respect to the amount and nature of such income for each six months' period ended June 30 and December 31 will be furnished such bearers by the Depositor upon application at any reasonable time, all in accordance with the provisions of the Trust Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That in consideration of the premises and of the mutual agreements herein contained and in order to declare the terms and conditions upon which the Stock Units, cash, and other property are to be held, managed, and applied for the benefit of the Depositor and other subsequent bearers of Certificates and upon which the Certificates are to be issued, received, and held, the parties hereto, each for himself and itself and not for the others, or any of them, agree each with the others as follows:

ARTICLE I—GENERAL PROVISIONS REGARDING THE CERTIFICATES AND COUPONS

SECTION 1. The Certificates and the appurtenant coupons shall be substantially of the tenor and purport above recited, with appropriate variations, insertions, and omissions. The Certificates shall be known as the American Depositor Corporation Certificates for Corporate Trust Shares. Each definitive Certificate shall be engraved, lithographed, or printed, shall be in bearer form, and shall represent either

10, 25, 50, 100, 250, 500, 1000, or 2000 Corporate Trust Shares (or, at the request of the Depositor, 5 Corporate Trust Shares or any multiple thereof) of the face value of \$10 each, as therein specified, in a Stock Unit (as hereinafter in Section 2 of Article II defined) and the proportion of other property and cash, if any, from time to time on deposit with the Trustee applicable to such number of Corporate Trust Shares. The Certificates shall be dated as of the respective dates of actual issue thereof and shall be numbered 1001 and consecutively upward in the order of issue; and Certificates representing 10, 25, 50, 100, 250, 500, 1000, and 2000 Corporate Trust Shares shall be respectively designated B, C, D, E, K, F, G, and H, and Certificates representing other numbers of Corporate Trust Shares shall bear other distinctive letters. The Certificates shall be executed in the name and on behalf of the Trustee by any present or future authorized officer of the Trustee, and the Trustee may adopt and use for that purpose the signature of any person who shall have been such authorized officer notwithstanding the fact that he may have ceased to be such authorized officer at the time when the Certificates shall be actually delivered. The Certificates shall bear a notation permitting the countersignature of the Depositor to be thereunto affixed as provided in Section 5 of Article II hereof. The Certificates may bear any appropriate legend and may contain other appropriate specifications to conform to the rules of any stock exchange or any usage with respect thereto. The Depositor will cause definitive Certificates with coupons from time to time required to be issued hereunder to be prepared without expense to the Trustee.

SECTION 2. Each definitive Certificate, when issued, shall have attached thereto coupons maturing on each 30th day of June and 31st day of December from the date of issuance thereof to and including December 31, 1953.

SECTION 3. The coupons to be attached to the definitive Certificates shall be authenticated with the facsimile of the signature of the present Treasurer or any future Treasurer of the Trustee, and the Trustee may adopt and use for that purpose the facsimile of the signature of any person who shall have been such Treasurer, notwithstanding the fact that he may have ceased to be such Treasurer at the time when the coupons shall be actually delivered.

SECTION 4. At the request of the bearer and upon surrender of a Certificate or Certificates with all unmatured appurtenant coupons the Trustee will execute and deliver to the Depositor, and the Depositor will countersign and redeliver to the Trustee another Certificate or Certificates (with appropriate coupons), in exchange therefor, representing in the aggregate a number of Corporate Trust Shares equal to the total number of such Shares represented by the Certificate or Certificates surrendered, under such reasonable regulations as the Trustee may determine and upon payment of a sum sufficient to cover all charges and expenses of the Trustee in connection with such exchange.

SECTION 5. Each Certificate shall be issued in the State of New York upon the following terms and conditions, to all of which the Trustee, and the Depositor and each subsequent bearer of such Certificate consents and agrees: (a) Such Certificate and all rights and obligations thereunder and all the provisions thereof shall be gov-

erned by the laws of the State of New York; (b) title to such Certificate and all rights and interests represented thereby may be transferred and assigned by delivery merely in the same manner as a negotiable instrument payable to bearer; (c) any person in possession of such Certificate, regardless of the manner in which he shall have acquired possession, is hereby authorized to represent himself as the absolute owner thereof, and is hereby granted power to transfer absolute title thereto by delivery thereof to a bona fide purchaser, that is, to anyone who shall purchase such Certificate for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against his transferor; (d) every prior taker or owner waives and renounces all of his equities or rights in such Certificate in favor of every bona fide purchaser; and every such bona fide purchaser shall acquire absolute title to such Certificate and to all rights represented thereby; and (e) the Trustee may treat the bearer of such Certificate as the absolute owner thereof for all purposes without being affected by any notice to the contrary.

SECTION 6. By a Trust Agreement supplemental hereto, executed by the Trustee and the Depositor, provision may be made for issue of Certificates hereunder in form for registration as to principal only, or for registration both as to principal and as to distributions, and providing for such registration. In such cases, all such Certificates shall be entitled in all respects to the benefits of this Agreement as Certificates in bearer form, and the term "bearer" whenever used herein shall be taken to include the registered owner of such a Certificate, unless the context otherwise indicates.

SECTION 7. Pending the preparation of definitive Certificates the Trustee may execute and deliver to the Depositor, in lieu of definitive Certificates but subject to the same provisions, limitations, and conditions as definitive Certificates, except with respect to the number of Corporate Trust Shares to be represented thereby, one or more temporary printed or typewritten Certificates, substantially of the tenor of the Certificate hereinabove recited, with or without coupons attached, and with such omissions, insertions, and variations from the form of such Certificate and coupon so recited, as may be appropriate and calling for delivery of an appropriate definitive Certificate or Certificates (with all unmatured coupons attached). Each such temporary Certificate shall bear on its face an appropriate legend showing that it is a temporary Certificate exchangeable for a definitive Certificate or Certificates (with all unmatured appurtenant coupons attached), when prepared. The Depositor will cause temporary Certificates from time to time required to be issued hereunder to be prepared without expense to the Trustee.

Upon surrender of any temporary Certificate or Certificates, with all unmatured coupons, if any, attached, at the principal office of the Trustee, in the Borough of Manhattan, City and State of New York, for exchange, the Trustee will execute and deliver in exchange therefor and the Depositor will countersign, without expense to the bearer or bearers thereof, definitive Certificates, with all unmatured coupons attached, when prepared, representing in the aggregate the same number of Corporate Trust Shares, as the temporary Certificate or Certificates so surrendered. Until so exchanged, temporary Certificates shall be entitled in all respects to the same benefits of this

Agreement as the definitive Certificates issued hereunder. Semi-annual distributions with respect to Corporate Trust Shares represented by temporary Certificates without coupons shall be made upon presentation thereof and notation of such distributions thereon. All temporary Certificates surrendered in exchange for definitive Certificates shall be cancelled forthwith by the Trustee.

SECTION 8. In case any definitive Certificate with the coupons thereto appertaining or any temporary Certificate with or without coupons attached shall become mutilated or be destroyed, stolen, or lost, the Trustee in its discretion may execute and deliver to the Depositor and the Depositor shall thereupon countersign and redeliver to the Trustee and the Trustee shall deliver a new Certificate of like tenor, with all unmatured coupons, if any, attached and representing the same number of Corporate Trust Shares as the mutilated, lost, stolen, or destroyed Certificate, in exchange for and upon cancellation of such mutilated Certificate and the coupons thereto appertaining, if any, or in lieu of and substitution for the Certificate and appurtenant coupons, if any, so destroyed, stolen, or lost, and such new Certificate and appurtenant coupons, if any, may be marked "duplicate" or be otherwise distinguished. The applicant for such substitute Certificate and coupons, if any, shall furnish the Trustee and the Depositor evidence to their satisfaction, respectively, of the ownership of such original Certificate and coupons, if any, and of the mutilation, destruction, theft, or loss thereof, and also indemnity of the character and in a sum satisfactory to the Trustee and the Depositor, respectively. The applicant for any substitute Certificate if required by the Trustee or the Depositor as a condition precedent to the issue of such substitute Certificate shall pay all reasonable expenses, including counsel fees, incurred by the Trustee or the Depositor in connection therewith.

ARTICLE II—DEPOSIT OF STOCK UNITS, OTHER PROPERTY AND CASH, AND ISSUE OF CERTIFICATES

SECTION 1. The Depositor, simultaneously with the execution hereof, has deposited with the Trustee certificates duly endorsed in blank, or accompanied by all necessary instruments of assignment and transfer in proper form, representing the full-paid shares of stock of the companies specified in the recitals hereto and therein collectively referred to as a Stock Unit, together with—

A. The sum of \$1,000 in cash as the Reserve Fund therefor (hereinafter in Section 1 of Article V described); and

B. A sum in cash equal to (a) Interest on the sum of \$1,000, for the period commencing on January 1, 1929, and ending on the date of such deposit, at the rate or rates currently allowed by the Trustee in such period on a deposit of such amount, of the character of such Reserve Fund; (b) All cash dividends and the market value (as defined in Section 5 of Article VI hereof) on the day preceding the date of such deposit (or, in the case of subscription rights which shall have expired, on the day preceding the expiration thereof) of all stock dividends, subscription rights and other property, if any, distributable on or after January 1, 1929, with respect to shares of stock so deposited and with respect to 4 shares of common stock of

any constituent company (as defined in Section 2 of this Article II) in respect of which the shares of stock of such constituent company so deposited shall have been issued on or after January 1, 1929, upon the reclassification of stock of such constituent company, in each case to the holders of record thereof on a date after December 31, 1928, and prior to such deposit; and (c) The market value (as defined in Section 5 of Article VI hereof) on the day preceding the date of such deposit of all shares of common stock of a constituent company (so defined), in excess of 4 shares, issued on or after January 1, 1929, upon any such reclassification in respect of 4 shares of common stock of such constituent company outstanding prior to such reclassification:

to be held, managed, and applied by the Trustee as herein provided, and the Trustee simultaneously therewith executed and delivered to the Depositor a Certificate or Certificates representing the ownership of an aggregate of 2000 undivided 1/2000th interests in a Stock Unit and in the proportion of any other property or cash which from time to time may be held by the Trustee hereunder applicable to 2000 Corporate Trust Shares.

Wherever herein used the term "Corporate Trust Share" shall be taken to mean one such undivided 1/2000th interest and each Corporate Trust Share shall have the face value of \$10.

SECTION 2. The term "Stock Unit" wherever used herein or in a Certificate shall be taken to mean the number of shares of stock of the companies (hereinafter sometimes called the constituent companies) specified in the recitals hereto and therein collectively referred to as a Stock Unit; provided, however, that if, as set forth in Section 5 of Article III hereof, any shares of stock of a constituent company held by the Trustee as part of the Stock Units shall be reclassified or changed into the same or a greater number of shares of common stock (as hereinafter defined), with or without par value, of such constituent company, or if, pursuant to the provisions of Section 6, Section 7, or Section 9, of Article III hereof any such shares shall be surrendered in exchange for the same or a greater number of shares of common stock of a company not a constituent company, thereafter 4 shares (but not more than 4 shares) of common stock of such constituent company or of such other company (as the case may be) shall be deemed to be part of a Stock Unit, and any such other company thereafter shall be deemed to be a constituent company, and any shares of stock of a company so surrendered, or surrendered on the dissolution of such company, or sold as required by the provisions of Section 5, Section 8, or Section 12 of Article III hereof, shall not thereafter be deemed to be part of a Stock Unit; and, if all shares of stock of any company then held by the Trustee as part of the Stock Units shall be so surrendered, or surrendered on the dissolution of such company, or sold as required by the provisions of said Section 5, Section 8, or Section 12, such company shall no longer be deemed to be a constituent company. The term "common stock" wherever used herein or in the Certificates shall be taken to mean stock of a class the participation of which as to assets and dividends is not limited to a specified maximum, whether or not such stock carries any voting rights and whether the beneficial ownership thereof is represented by stock certificates, certificates of deposit,

voting trust certificates, or interim receipts, and the Depositor at any time may deposit hereunder as part of a Stock Unit any such certificates of deposit, voting trust certificates, or interim receipts representing the beneficial ownership of shares of capital stock of a constituent company of the class then forming part of the Stock Units. Notwithstanding the foregoing definition of "common stock" no shares of stock of a company shall be deemed to be of the same class as any shares of stock of such company held hereunder unless such shares shall have rights, preferences, privileges, limitations, and restrictions in all respects the same as the rights, preferences, privileges, limitations, and restrictions of such shares of stock of such company held hereunder. The term "company" wherever used herein shall be deemed to include an association as well as a corporation.

There shall be inserted in the appropriate legend on the reverse of each Certificate prior to issuance a list setting forth the number and class of the shares of stock of the companies which at the date of the execution hereof constituted a Stock Unit, but in case shares constituting a Stock Unit shall change as herein provided the list contained in such legend on the reverse of each Certificate issued thereafter may, if the Depositor so directs, set forth the number and class of the shares of stock of the companies which at the time of issuance of such Certificate constitute a Stock Unit and in such case an appropriate change shall be made in the date set forth in said legend; provided, however, that in case all of the shares of capital stock of any company held by the Trustee as part of the Stock Units shall be sold as required by the provisions of Section 5, Section 8, or Section 12 of Article III hereof, the name of such company and the description of such shares shall be eliminated from such legend on the reverse of each Certificate issued thereafter and appropriate reference to such elimination may be made in such legend.

SECTION 3. Until the termination of this Agreement as hereinafter provided, upon the deposit by the Depositor with the Trustee at any time and from time to time, under the terms and provisions hereof, of:

A—A Stock Unit:

B—A sum in cash equal to the proportion applicable to 2,000 Corporate Trust Shares then outstanding of moneys then on deposit with the Trustee as the Reserve Fund (hereinafter in Section 1 of Article V described) and not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become, payable; less the proportion applicable to 2,000 Corporate Trust Shares of the amount of all payments to be made from such Reserve Fund by the Trustee for any period prior to such deposit (and not to become payable with respect to the shares of stock, cash, and other property so to be deposited) for assessments, taxes, or otherwise in accordance with Section 5, Section 6, Section 7, or Section 8 of Article III, or of subdivision (g) of Section 1 of Article VII;

C—A sum in cash equal to the proportion applicable to 2,000 Corporate Trust Shares then outstanding of:

(a) Interest allowed by the Trustee to the date of such deposit pursuant to the provisions of Section 3 of Article III hereof on moneys then on deposit with the Trustee as part of such Reserve Fund and not then distributable under the provisions of Section 2

of Article IV hereof in respect of coupons which are then, or have previously become, payable;

(b) Any cash held by the Trustee, received by the Trustee hereunder as a dividend or other distribution or by way of interest, and not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become, payable;

(c) Any cash held by the Trustee, received by the Trustee pursuant to the provisions of Section 4 of Article III hereof as the net proceeds from the sale of stock dividends, subscription rights, securities, and other rights and property (except cash) received by the Trustee (without the surrender of any of the shares of stock forming part of the Stock Units) which cash is not then distributable under the provisions of Section 2 of Article IV hereof in respect of coupons which are then, or have previously become, payable;

(d) Any cash held by the Trustee as the balance of the net proceeds of sales of securities and other property required to be sold pursuant to the provisions of Section 5, Section 6, Section 7, subdivision (b) of Section 8, Section 9, Section 11, or Section 12 of Article III hereof, remaining after payment of any sums payable therefrom under the provisions of any such Section; and

(e) Cash dividends and the market value (as defined in Section 5 of Article VI hereof) on the day preceding the date of such deposit of all stock dividends, subscription rights, and other property which became distributable to the Trustee with respect to the shares of stock held by it hereunder prior to the date of such deposit, but which theretofore shall not have been received by the Trustee;

less the proportion applicable to 2,000 Corporate Trust Shares of the amount of all payments from currently distributable funds (as defined in Section 1 of Article IV) to be made by the Trustee for taxes or charges in accordance with subdivision (g) of Section 1 of Article VII, for any period prior to such deposit (and not to become payable with respect to the shares of stock, cash, and other property so to be deposited);

D—A sum in cash equal to all cash dividends and to the market value (as defined in Section 5 of Article VI hereof) on the day preceding the date of such deposit of all stock dividends, subscription rights and other property, distributable on or after the date of such deposit with respect to shares of stock so deposited to the holders of record thereof on a date prior to such deposit; and

E—Shares of stock, securities, or other property, in kind, equivalent to the proportionate amount of stock, securities, and other property (in addition to Stock Units), if any, then held by the Trustee, applicable to 2,000 Corporate Trust Shares, then outstanding; or, at the option of the Depositor, in lieu thereof a sum in cash equal to the market value (as defined in Section 5 of Article VI hereof) of such shares of stock, securities, or other property on the day preceding the date of such deposit;

the Trustee shall forthwith execute and deliver to the Depositor a Certificate or Certificates (with or without appropriate coupons) for

an aggregate of 2,000 Corporate Trust Shares, each such Certificate to represent the number (not exceeding 2,000) of Corporate Trust Shares specified by the Depositor.

SECTION 4. All shares of stock deposited with the Trustee pursuant to the provisions of Section 3 of this Article II shall be full-paid and shall be duly endorsed in blank by the record holder or accompanied by all necessary instruments of assignment and transfer in proper form, and all other property so deposited shall be accompanied by all necessary instruments of assignment and transfer in proper form, and, at the time of any such deposit, the Depositor shall pay to the Trustee a sum in cash sufficient to pay all transfer taxes and other governmental duties or charges, if any, payable in connection with the transfer of such shares of stock and other property and in connection with the issue of Certificates. In accepting any deposit hereunder the Trustee shall be entitled to assume that shares of stock deposited hereunder are full-paid.

SECTION 5. No Certificate shall be valid for any purpose when held by any person other than the Depositor unless such Certificate shall have been countersigned by the Depositor to evidence the assignment and transfer by it of its rights and interests as a bearer of such Certificate and its assent to the provisions thereof; provided, however, that the Depositor shall not assume or incur any obligation, duty, or liability of any nature whatsoever to any subsequent bearer of such Certificate by reason of such countersignature or otherwise, except such obligations, duties, and liabilities as shall be expressly provided for herein. Certificates shall be countersigned in the name and on behalf of the Depositor by any present or future President, Vice President, Treasurer, or Assistant Treasurer of the Depositor or by any Agent (which may be a corporation or association) appointed by the Depositor for the purpose, and the Depositor may adopt and use for that purpose the signature of any person who shall have been such President, Vice President, Treasurer, Assistant Treasurer, or Agent, notwithstanding the fact that he or it may have ceased to be such President, Vice President, Treasurer, Assistant Treasurer, or Agent at the time when the Certificates shall be actually delivered by the Depositor to some other person. The Trustee shall not be responsible for, or in respect of, the validity of any such countersignature and shall incur no liability to anybody in acting upon any countersignature believed by it to be genuine and to have been made by a proper person.

ARTICLE III—MANAGEMENT OF DEPOSITED PROPERTY

SECTION 1. All certificates representing shares of stock forming part of the Stock Units held by the Trustee hereunder shall be registered either in the name of the Trustee or in the name of its nominee or nominees, who may (but need not be) officers or employees of the Trustee.

SECTION 2. The Trustee shall receive all income, profits, earnings, dividends, interest, and distributions from, and proceeds of all shares of stock and other property held by it hereunder (herein sometimes collectively termed the Deposited Property) and shall apply, distribute, and deal with the same under the terms and provisions

hereof; and to the extent that may be necessary or proper to carry out the powers hereby granted the Trustee shall have and may exercise all other rights and privileges of an owner of the Deposited Property.

SECTION 3. The Trustee shall hold all moneys deposited with it or received by it hereunder as a general deposit until required to disburse the same in accordance with the provisions of this Agreement, and the requirements of any rule of law or statute now or hereafter in force regarding the investment of trust funds shall not apply to such moneys.

Until the expiration of ninety days after the termination of this Agreement, the Trustee shall allow and shall credit quarterly to the Deposited Property interest, at rates currently allowed by it on deposits of similar amounts and character, on the Reserve Fund (described in Section 1 of Article V of this Agreement), if any, on deposit with it; but the Trustee shall not allow or credit interest to the Deposited Property on the Reserve Fund after the expiration of such period nor on any other sums held by it hereunder either before or after the termination of this Agreement and the Trustee shall be entitled to retain any interest not required to be credited to the Deposited Property or may pay over the same to any other person, including the Depositor.

SECTION 4. A. The Trustee, in the manner hereinafter in subdivision B of this Section 4 set forth, shall sell (a) all shares of stock, subscription rights, securities, and other rights and property received by it (without the surrender of any of the shares of stock forming part of the Stock Units held by it) by way of dividends upon or distributions with respect to the Deposited Property or any part thereof, (b) all securities, rights, and property received by the Trustee pursuant to the provisions of Section 5, Section 6, Section 7, Section 9, or Section 11 of this Article III upon the reclassification, change, exchange, or surrender of shares of stock theretofore forming part of a Stock Unit and required to be sold by the provisions of any such Section; (c) all shares of common stock required to be sold by the provisions of subdivision (b) of Section 8 and Section 12 of this Article III, and (d) shares of stock, securities, and property deposited with the Trustee pursuant to the provisions of subdivision E of Section 3 of Article II hereof. Subject to the provisions of subdivision (b) of Section 4 of Article VI, any balance of the net cash proceeds of such sales, remaining after payment of any sums payable therefrom under the provisions of Section 5, Section 6, Section 7, Section 8, Section 9, or Section 11 of this Article III, shall be treated as credited to currently distributable funds (as defined in Section 1 of Article IV) and shall be distributed with respect to outstanding Corporate Trust Shares in the manner and at the times hereinafter in Section 2 of Article IV provided.

B. All such shares of stock, subscription rights, securities, and other rights and property shall be sold within thirty days after the receipt thereof by the Trustee or, in the case of shares of common stock required to be sold by the provisions of subdivision (b) of Section 8 or Section 12 of this Article III, within thirty days after the Trustee shall first be required to sell the same thereunder; pro-

vided, however, that any such subscription rights shall be sold before the date of expiration thereof, if such date be less than thirty days after the receipt thereof by the Trustee.

All shares of stock, securities, rights, and other property so required to be sold, which are listed or commonly dealt in on the New York Stock Exchange shall be sold on such Exchange. All such shares of stock, securities, rights, and other property which are listed or commonly dealt in on any other stock exchange or stock exchanges shall be sold on such other stock exchange or on one of such other stock exchanges, as the case may be. Any of such shares of stock, securities, rights, or other property not listed or commonly dealt in on any stock exchange shall be sold in such manner and at such place, by public or private sale, as the Depositor, in its absolute discretion, by notice in writing to the Trustee shall direct.

The time of any such sale and the price at which any such shares of stock, securities, rights, or other property shall be offered for sale by the Trustee, whether on a stock exchange or otherwise, shall be determined by the Depositor in its absolute discretion with the purpose of obtaining the highest price in the opinion of the Depositor reasonably obtainable therefor, considering the period within which such sale must take place, the amount to be offered for sale and the condition of the market.

The Trustee shall from time to time specify to the Depositor in writing the stock, securities, rights, and other property, if any, required to be sold hereunder and the respective dates before which the same are required to be sold; and the Depositor shall, from time to time, specify to the Trustee in writing the respective times when such sales shall take place and the respective prices at which such stock, securities, rights, or other property shall be offered; provided, however, that the Depositor shall not so specify a time for the making of any such sale which shall be later than 5 days prior to the expiration of the period in which such sale is required to be made. If, five days prior to the expiration of the period in which any such sale is required to be made, the Trustee, for any reason, shall have been unable to make such sale at the time, place, and price directed by the Depositor, or if the Depositor shall have failed to give any directions with respect thereto, the Trustee shall make any such sale to be made in accordance with this subdivision B, at a time, place, and price determined by the Trustee in its absolute discretion.

SECTION 5. In case at any time the shares of stock of any constituent company forming part of the Stock Units then held by the Trustee hereunder shall be reclassified or changed into the same or a different number of shares of stock, with or without par value, of such constituent company, the Trustee shall forthwith exchange the certificates for such shares then held by it for certificates representing the shares of stock into which the same shall have been so reclassified or changed, unless, under the terms of such reclassification or change, such shares then held by it shall be reclassified or changed into a greater number of shares of the same class and designation and the Trustee shall not be required to surrender the certificates for such shares then held by it. The Trustee shall sell, in accordance with the provisions of subdivision B of Section 4 of this Article III, all shares of stock of such constituent company of a class not defined herein as common stock

received by it upon such reclassification or change, and in case the Trustee shall receive upon such reclassification or change 4 or more shares of common stock of such constituent company with respect to each Stock Unit then held by it hereunder, it shall sell, in the manner so provided, all shares of such common stock in excess of 4 shares with respect to each such Stock Unit and shall retain and thereafter hold hereunder, as part of each Stock Unit, 4 of the shares of such common stock so received by it, as if such shares had been originally specified herein and in the Certificates as constituting part of a Stock Unit; and in case the Trustee shall receive upon such reclassification or change less than 4 shares of common stock of such constituent company with respect to each Stock Unit then held by it hereunder, it shall sell, in the manner so provided, all shares of such common stock so received by it. In the event that the Trustee, as the holder of any shares of stock so to be reclassified or changed, shall be given any option with respect to such reclassification or change, it shall exercise such option in such manner as the Depositor shall in writing direct. If any sums become payable by it as such stockholder, or for taxes, or otherwise in connection with any such reclassification or change, the Trustee shall pay any such sums, first out of any sums received by it pursuant to such reclassification or change, then out of the then existing Reserve Fund (hereinafter in Section 1 of Article V described), and then out of the net cash proceeds, if any, from the sale of shares of stock received by it upon such reclassification or change which it shall be required to sell as aforesaid.

SECTION 6. In case a constituent company shall consolidate with or merge into another company or shall sell all or substantially all of its assets to another company (pursuant to the terms of a sale whereby securities of such other company or securities of such other company and other property are to be distributed with respect to shares of stock of such constituent company of the class held by the Trustee as part of a Stock Unit) and such consolidation, merger, or sale shall have become effective, the Trustee shall exchange the shares of such constituent company then held by it hereunder for the new securities and other property, if any, distributable with respect to such shares pursuant to such consolidation or merger or the terms of such sale, and the Trustee shall pay any sums required to be paid by it as taxes or otherwise in connection with such consolidation, merger or sale, first from any sums received by it pursuant thereto, then out of the then existing Reserve Fund (hereinafter in Section 1 of Article V described), and then out of the net cash proceeds, if any, from the sale of any securities (or property) received by it upon such consolidation, merger, or sale which it shall be required to sell as hereinafter in this Section 6 provided, unless, prior to such exchange, (a) the Trustee shall have information believed by it to be reliable that a Protective Committee for shares of stock of such company of the class held by the Trustee hereunder as part of the Stock Units shall have been formed and shall be in existence for the purpose of opposing such consolidation, merger, or sale, and (b) the Trustee shall have been required, under the provisions of Section 7 of this Article III, to deposit the shares of such stock held by it hereunder with such Protective Committee. The Trustee shall sell, in accordance with the provisions of subdivision B of Section 4 of

this Article III, all securities (or property) of a class not defined herein as common stock received by it upon such exchange, and in case the Trustee shall receive upon such exchange 4 or more shares of common stock with respect to each Stock Unit then held by it hereunder, it shall sell, in the manner so provided, all shares of such common stock in excess of 4 shares with respect to each such Stock Unit and shall retain and thereafter hold hereunder, as part of each Stock Unit, 4 of the shares of such common stock so received by it, as if such shares had been originally specified herein and in the Certificates as constituting part of a Stock Unit; and in case the Trustee shall receive upon such exchange less than 4 shares of common stock with respect to each Stock Unit then held by it hereunder, it shall sell, in the manner so provided, all shares of such common stock so received by it.

SECTION 7. (a) In case a Protective Committee of the character referred to in Section 6 of this Article III shall have been formed and shall be in existence, or in case a Plan for the consolidation of a constituent company with, or the merger of a constituent company into another company, or for the exchange of shares of stock of a constituent company of a class held by the Trustee hereunder as part of the Stock Unit for securities of another company or securities of another company and other property (whether in connection with the sale of its assets or otherwise) shall be publicly proposed, and if the Trustee shall have information believed by it to be reliable that the holders of a majority of the shares of stock of such constituent company of the class held by the Trustee hereunder as part of the Stock Units shall theretofore have deposited their shares with such Protective Committee or signified their assent to such Plan in writing or by the deposit of such shares under such Plan or otherwise, then and in each such case, the Trustee shall in like manner deposit the shares of such constituent company of such class then held by it with such Protective Committee or signify its assent to such Plan with respect to such shares, as the case may be.

(b) In case any such Protective Committee shall have been formed and shall be in existence or in case any such Plan shall be proposed, and if prior to the expiration of the time during which deposits may be made or assent may be given, the Trustee is unable to determine whether the holders of a majority of the shares of stock of such company of the class held by the Trustee hereunder as part of the Stock Units have deposited their shares with such Protective Committee or have assented to such Plan, the Trustee shall deposit such shares held by it with such Protective Committee or shall withhold such shares, or shall give or withhold its assent to such Plan, in accordance with written directions which the Depositor in its absolute discretion may give to the Trustee.

(c) In case any such Protective Committee shall have been formed and shall be in existence or in case any such Plan shall be proposed, and if, prior to the expiration of the time during which deposits may be made or assent may be given, the Trustee has information believed by it to be reliable that holders of a majority of the shares of stock of such company of the class held by the Trustee hereunder as part of the Stock Units will have deposited their shares with such Protective Committee or will have assented to such Plan if the Trustee shall so deposit

such shares held by it or shall so assent to such Plan with respect to such shares, the Trustee shall deposit such shares held by it with such Protective Committee or shall withhold such shares, or shall give or withhold its assent to such Plan, in accordance with written directions which the Depositor in its absolute discretion may give to the Trustee.

(d) Notwithstanding any provisions of this Section 7, if at the time at which the Trustee is so required to deposit shares or assent to any such Plan the Trustee has information believed by it to be reliable that sums will be required to be paid by it as such depositor or as a party to such Plan or for taxes, exceeding the sums, if any, to be received by it pursuant thereto and the then existing Reserve Fund (hereinafter in Section 1 of Article V described), and the net cash proceeds, if any, from the sale of securities (or property) to be received by it pursuant to such Plan which it shall be required to sell under any provision of this Agreement, the Trustee shall not make such deposit or assent to any such Plan, as the case may be.

(e) Upon any such Plan becoming effective, the Trustee shall exchange the shares of stock of the class held by it as part of the Stock Units for the securities and other property, if any, distributable with respect thereto under such Plan (unless the Trustee shall have theretofore deposited certificates representing such shares previously held by it for exchange under such Plan) and shall pay any sums required to be paid pursuant to such Plan, first from any sums received by it pursuant thereto, then out of the then existing Reserve Fund (hereinafter in Section 1 of Article V described), and then out of the net cash proceeds, if any, from the sale of securities (or property) received by it pursuant to such Plan which it shall be required to sell as hereinafter in this Section 7 provided. The Trustee shall sell, in accordance with the provisions of subdivision B of Section 4 of this Article III, all securities (or property) of a class not defined herein as common stock received by it upon such exchange, and in case the Trustee shall receive upon such exchange 4 or more shares of common stock with respect to each Stock Unit then held by it hereunder, it shall sell, in the manner so provided, all shares of such common stock in excess of 4 shares with respect to each such Stock Unit and shall retain and thereafter hold hereunder, as part of each Stock Unit, 4 of the shares of such common stock so received by it, as if such shares had been originally specified herein and in the Certificates as constituting part of a Stock Unit; and in case the Trustee shall receive upon such exchange less than 4 shares of common stock with respect to each Stock Unit then held by it hereunder it shall sell, in the manner so provided, all shares of such common stock so received by it.

SECTION 8. (a) In case any assessment shall be legally made with respect to any shares held by the Trustee hereunder, the Trustee shall pay such assessment out of the then existing Reserve Fund (hereinafter in Section 1 of Article V described).

(b) In case any shares of stock held by the Trustee as part of the Stock Units shall be reclassified or changed as set forth in Section 5 of this Article III, or in case the Trustee shall have made any exchange pursuant to Section 6 of this Article III, or shall have deposited shares of stock held by it hereunder as part of the Stock Units with a Protective Committee, or in case the Trustee shall have become a party to any such Plan with respect to shares of stock held by it hereunder as

part of the Stock Units and if the sums ultimately payable by the Trustee in connection with such reclassification, change, exchange, deposit, or Plan as taxes or otherwise exceed any sums to be received by it pursuant thereto, and the then existing Reserve Fund (hereinafter in Section 1 of Article V described), and the net cash proceeds, if any, from the sale of securities (or property) received by it pursuant to such reclassification, change, exchange, deposit, or Plan, which it shall be required to sell under any provision of this Agreement, or if the sums payable by the Trustee for any assessments legally made with respect to any shares held by the Trustee as part of the Stock Units and for any counsel fees and expenses sustained or incurred by it with respect to any action or suit relating to the collection thereof shall exceed such then existing Reserve Fund, the Trustee shall sell or cause to be sold, in the manner hereinabove in subdivision B of Section 4 of this Article III provided, all shares held by it which are involved in such reclassification, change, or exchange, or which are so deposited or subject to such Plan or to such assessment (as the case may be) and shall pay any sums so payable by it out of the proceeds of such sale.

SECTION 9. In case pursuant to the provisions of Section 5, Section 6, or Section 7 of this Article III, the Trustee shall deposit any shares of stock held by it as part of the Stock Units and shall receive in exchange therefor certificates of deposit or other instruments representing such deposited shares, such certificates of deposit or other instruments shall be held by it hereunder as part of the Stock Units, as if such certificates of deposit or other instruments had been originally specified herein and in the Certificates as constituting a part of a Stock Unit, until such certificates or instruments shall be surrendered pursuant to their terms in exchange for securities or other property. The Trustee shall sell, in accordance with the provisions of subdivision B of Section 4 of this Article III, all securities (or property) received by it upon the exchange of such certificates of deposit or other instruments of a class not defined herein as common stock, and in case the Trustee shall receive upon such exchange 4 or more shares of common stock with respect to each Stock Unit then held by it hereunder, it shall sell, in the manner so provided, all shares of such common stock in excess of 4 shares with respect to each such Stock Unit and shall retain and thereafter hold hereunder, as part of each Stock Unit, 4 of the shares of such common stock so received by it, as if such shares had been originally specified herein and in the Certificates as constituting part of a Stock Unit; and in case the Trustee shall receive upon such exchange less than 4 shares of common stock with respect to each Stock Unit then held by it hereunder it shall sell, in the manner so provided, all shares of such common stock so received by it.

SECTION 10. Subject to the provisions of Sections 6 and 7 of this Article III, the Trustee shall vote and consent with respect to shares of stock held by it hereunder in such manner as the Depositor, as financial adviser to the Trustee, may in its absolute discretion, by notice in writing to the Trustee, direct; and from time to time the Trustee shall deliver to or on the order of the Depositor proxies to vote or consent with respect to shares of stock held by the Trustee hereunder in such manner as is so directed by the Depositor, such

proxies to be in such name or names as the Depositor shall specify in writing to the Trustee.

SECTION 11. Subject to the provisions of Sections 6, 7, and 9 of this Article III, if any constituent company shall be dissolved the Trustee, pursuant to the terms of such dissolution, shall surrender the certificates representing shares of stock of such company held by it hereunder as part of the Stock Units, and shall receive the cash or other property distributable with respect to such shares and all such property shall be sold pursuant to the provisions of subdivision B of Section 4 of this Article III.

SECTION 12. In case any constituent company shall fail, for the period of twelve consecutive calendar months, to make any distribution, whether of cash, stock, or other property, or of subscription rights, with respect to the shares of its capital stock at the time forming part of the Stock Units, and such failure shall continue for the period of thirty days thereafter, such shares of stock then held by the Trustee shall be sold in accordance with the provisions of subdivision B of Section 4 of this Article III; provided, however, that such shares of stock shall not be so sold if prior to the first sale thereof as aforesaid the Trustee shall have information believed by it to be reliable that such constituent company shall have declared any such distribution upon such shares for payment or delivery within thirty days after the date of declaration thereof, but if such distribution so declared shall not be made within thirty days after such date of declaration, the Trustee shall proceed to sell such shares of stock in accordance with the provisions of subdivision B of section 4 of this Article III.

SECTION 13. In case any event not specified in this Agreement shall occur, requiring the exercise of discretion in the management of the Deposited Property, the Trustee shall take such action with respect thereto as the Depositor, as financial adviser to the Trustee in its absolute discretion shall direct in writing, or, if the Depositor shall fail to give such direction, as the Trustee in its absolute discretion shall determine. Neither the Trustee nor the Depositor shall be liable for any action taken or omitted by either or for any direction given by the Depositor in good faith under the provisions of this Article III; but each shall be liable only for its own wilful default or neglect. The Trustee shall be entitled conclusively to rely on the opinion of counsel (who may be counsel for the Depositor) with respect to:

(1) Whether or not any securities received in connection with any exchange, reclassification or change of stock or otherwise deposited with the Trustee hereunder shall be deemed to be common stock and a part of a Stock Unit as defined herein; or

(2) Whether or not any class of stock received by it hereunder is of the same class as other shares of stock of the same company held by it or constitutes shares of a company as herein defined; or

(3) Whether or not it is required to make any exchange, surrender, or deposit pursuant to this Article III; or

(4) Whether or not any sums are or will be required to be paid by it by way of taxes or otherwise pursuant to this Article III; or

(5) Whether or not any assessment with respect to shares held by it has been legally made.

ARTICLE IV—SEMI-ANNUAL DISTRIBUTIONS

SECTION 1. Whenever reference is made herein or in the Certificates to "currently distributable funds," such expression shall be taken to mean the sum of (a) all cash received by the Trustee as cash dividends or distributions or by way of interest with respect to the Deposited Property; (b) the net cash proceeds received by the Trustee from the sale, pursuant to the provisions of clauses (a) and (d) of subdivision A of Section 4 of Article III hereof, of stock dividends, subscription rights, securities, and other rights and property; (c) any interest allowed by the Trustee in accordance with the provision of Section 3 of said Article III; (d) all cash deposited with the Trustee upon the issue of Certificates pursuant to the provisions of subdivision B of Section 1 of Article II hereof and of subdivisions C, D, and E of Section 3 of said Article II; and (e) the balance of the net cash proceeds of sales of securities and other properties required to be sold pursuant to the provisions of Section 5, Section 6, Section 7, subdivision (b) of Section 8, Section 9, Section 11, or Section 12 of Article III hereof remaining after payment of any sums payable therefrom under the provisions of any such Section. In determining currently distributable funds at any time available for a purpose specified in this Agreement there shall be deducted (1) all payments made or to be made out of currently distributable funds for the period for which currently distributable funds are computed for taxes or other governmental charges in accordance with subdivision (g) of Section 1 of Article VII; (2) all payments made or required to be made from currently distributable funds to bearers of Certificates upon the surrender thereof within the period for which currently distributable funds are computed and prior to the last day thereof; and (3) all currently distributable funds then distributable under the provisions of Section 2 of this Article IV in respect of coupons which have previously become payable. Anything in this Section 1 contained to the contrary notwithstanding, no sums deposited with the Trustee pursuant to subdivision D of Section 3 of Article II hereof with respect to cash dividends, stock dividends, subscription rights, and other property distributable on or after the date of such deposit in respect of shares of stock deposited simultaneously therewith to the holders of record thereof on a date prior to such deposit shall be deemed to be a part of currently distributable funds until the date for the payment of the cash dividends, stock dividends, subscription rights, and other property distributable on the other similar shares of stock held by the Trustee at the time of such deposit.

SECTION 2. Until ninety days after the termination of this Agreement, the Trustee will distribute and pay, or cause to be distributed and paid, semiannually on the 30th day of June and the 31st day of December in each year, but only upon presentation and surrender at its principal office in the Borough of Manhattan, City and State of New York, or at any other paying agency designated by the Trustee (as hereinafter in Section 8 of this Article IV provided), of the appropriate coupons as they shall severally mature, and only out of the total currently distributable funds for the six months' period ended on the date such coupons are payable available for the purpose, and out of the then existing Reserve Fund (described in Section 1 of

Article V of this Agreement), a sum in currency of the United States of America equal to 35 cents with respect to each outstanding Corporate Trust Share represented by the Certificates to which the coupons so presented appertain; provided, however, that such sum shall be subject to increase or decrease as follows: (a) if such total currently distributable funds, together with such Reserve Fund, shall be less than 35 cents for each outstanding Corporate Trust Share, the amount payable on the date for payment of any such coupon with respect to each outstanding Corporate Trust Share shall be reduced by the amount of the deficiency applicable to each such Corporate Trust Share; or (b) if such total currently distributable funds shall exceed 35 cents for each outstanding Corporate Trust Share, the amount so payable shall be increased by the proportion of such excess applicable to each such Corporate Trust Share.

SECTION 3. In computing total currently distributable funds for any period applicable to any Corporate Trust Share outstanding on the last day of such period, all items to be credited to such funds shall be taken together, regardless of date of receipt in such period, and all items, if any, to be deducted shall be taken together, regardless of date of accrual in such period, and the excess of the total items to be credited over the total items to be deducted shall be divided by the number of Corporate Trust Shares outstanding on the last day of said period, and the result obtained shall be the portion of such total currently distributable funds applicable to such Corporate Trust Share. Cash dividends on any securities held by the Trustee hereunder which shall have been declared for payment on or prior to the last day of any period for which currently distributable funds are computed shall be included in the currently distributable funds for such period, although the Trustee shall not have received payment thereof, unless the Trustee shall be advised in writing by the Depositor prior to the last day of such period that the payment of such dividends so declared will not be made within one week after the last day of such period.

SECTION 4. Each bearer of a Certificate and each bearer of coupons appertaining thereto by acceptance thereof agrees that if, on the date for payment of any coupon appertaining to such Certificate, the portion of the then existing Reserve Fund (described in Section 1 of Article V of this Agreement) applicable to the Corporate Trust Shares represented by such Certificate shall be less than 50 cents for each such Corporate Trust Share and the amount payable on such coupon (as provided in clause (b) of Section 2 of this Article IV) shall exceed 35 cents for each such Corporate Trust Share he will pay or cause to be paid to the Trustee at its principal office in the Borough of Manhattan, City and State of New York (or at the paying agency at which said coupon is paid), at the time of payment of such coupon, but only out of the excess of such payment over 35 cents per Corporate Trust Share so far as the same shall suffice, a sum in cash which when added to the portion of such then existing Reserve Fund applicable to the Corporate Trust Shares represented by such Certificate, shall equal 50 cents for each such Corporate Trust Share; and all sums so paid by bearers of Certificates shall be held and dealt with by the Trustee, under and subject to the terms and provisions of this Agreement, as part of such Reserve Fund. In case any coupon on which an amount in excess of

35 cents per Corporate Trust Share is payable, from which excess a payment is required to be made to the Trustee, shall not be presented for payment on the due date thereof and as a result such payment required to be made to the Trustee is not made on such date, the Trustee shall advance to such Reserve Fund, on the day after said date, the amount which would have been payable to it if such coupon had been presented on the due date thereof; and, upon payment of such coupon when presented, the Trustee shall retain for its own account and benefit, in full repayment of such advance, the payment then made to it out of the excess amount over 35 cents per Corporate Trust Share payable on said coupon.

SECTION 5. Neither the Trustee nor any paying agency designated pursuant to the provisions of Section 8 of this Article IV, shall be required to pay any coupon or to make any distribution on any temporary Certificate unless and until an ownership certificate in the form appearing on the reverse of such coupon (or in any other form which may be required by the Trustee or by any taxing authority having jurisdiction) shall have been duly completed and executed. The Trustee may treat the bearer of any coupon as absolute owner thereof for all purposes without being affected by any notice to the contrary.

SECTION 6. In order to assist the bearers of Certificates in computing the amount of any income tax payable by them with respect to any income distributed to them on account of their interests in the Deposited Property, the Depositor upon application by any person entitled thereto at the date for payment of each coupon and at any reasonable time after such date will furnish to such person a written or printed statement showing (a) the record dates during the six months' period ended on the date for payment of such coupon of all cash dividends, stock dividends, subscription rights, and other rights and distributions received by the Trustee with respect to the Deposited Property and the amount applicable to one Corporate Trust Share outstanding on such record dates of such cash dividends and distributions and of the net proceeds received by the Trustee from the sale (pursuant to the provisions of clause (a) of subdivision A of Section 4 of Article III of this Agreement) of such stock dividends, subscription rights, and other rights and distributions; (b) the dates of receipt during such period and the amounts applicable to one Corporate Trust Share outstanding on such dates of any interest received by the Trustee in respect of the Deposited Property; and (c) the dates during such period on which interest shall have been allowed by the Trustee in accordance with the provisions of Section 3 of Article III hereof, and the amount thereof applicable to one Corporate Trust Share outstanding on such dates. For the information of the bearers of Certificates, the Depositor, from time to time, will also cause to be prepared and, upon application by any person entitled thereto, will furnish to such person, a written or printed statement showing the source, nature, and amount of currently distributable funds for the six months' period ended on the date for payment of each coupon applicable to one Corporate Trust Share outstanding throughout such period (or if no Corporate Trust Share shall have been outstanding throughout such period, the source, nature, and amount of sums which would have been currently distributable funds for such period applicable to one Corporate Trust Share outstanding throughout such

period, if it had been so outstanding, taking stock dividends, subscription rights, and other property distributable in such period prior to the issuance of Corporate Trust Shares at the market value thereof, as defined in Section 5 of Article VI hereof, on the day preceding the date of first issuance of Corporate Trust Shares in such period, or, in the case of subscription rights which shall have expired prior to said date, on the day preceding the expiration thereof) treating the amounts of any cash or the proceeds of any property deposited upon the issuance of Corporate Trust Shares during such period pursuant to the provisions of subdivision B of Section 1 of Article II of this Agreement and of subdivisions C, D, and E of Section 3 of said Article II, as if such cash and such proceeds had been received or credited by the Trustee in respect of Stock Units theretofore held by the Trustee hereunder. The Depositor may cause such statements to be prepared by accountants ordinarily employed by it or the Trustee or by any representative firm of public accountants satisfactory to the Trustee, and the Trustee will cooperate in the preparation thereof. Neither the Depositor nor the Trustee shall in any event be responsible for the accuracy of any such statement or be liable for any loss or damage caused by anything contained in or omitted from any statement so prepared.

SECTION 7. Before making any distribution in payment of any coupon, the Trustee or a paying agent designated pursuant to the provisions of Section 8 of this Article IV shall deduct the amount of all taxes, assessments, or other governmental charges, if any, which the Trustee or such paying agent may be required to deduct or withhold under any present or future law of the United States of America or of any other taxing authority having jurisdiction.

SECTION 8. The Trustee shall from time to time, upon the written request of the Depositor, designate paying agencies (satisfactory to the Trustee and willing to act in the manner prescribed by the Trustee) other than at its principal office in the Borough of Manhattan, City and State of New York, at which coupons may be presented for payment and, at any time upon the written request of the Depositor, shall terminate any such paying agency. The fees and disbursements of all such paying agencies shall be paid by the Depositor. Neither the Trustee nor the Depositor shall be liable for any action taken or omitted by any such paying agency.

ARTICLE V—THE RESERVE FUND

SECTION 1. The Trustee shall hold and apply as a Reserve Fund for the equal and proportionate benefit of each bearer of a Corporate Trust Share at the time outstanding the following sums, namely:

(a) The cash deposited pursuant to the provisions of subdivision A of Section 1 of Article II hereof;

(b) The cash deposited pursuant to the provisions of subdivision B of Section 3 of Article II hereof;

(c) The cash paid to the Trustee pursuant to Section 4 of Article IV hereof and any cash required to be advanced by the Trustee to the Deposited Property pursuant to the provisions of said Section 4.

The Reserve Fund shall be deemed to be part of the Deposited Property.

SECTION 2. The Trustee shall disburse funds in the Reserve Fund (a) in the payment of coupons in the events and in the manner hereinabove in Section 2 of Article IV provided, (b) in the payment of assessments, taxes, and other sums in the events and the manner hereinabove in Section 5, Section 6, Section 7, and Section 8 of Article III and in subdivision (g) of Section 1 of Article VII provided, and (c) in payments to bearers of Certificates upon the surrender thereof as hereinafter in Sections 3 and 4 of Article VI provided.

ARTICLE VI—TERMINATION OF THE AGREEMENT AND SURRENDER OF CERTIFICATES

SECTION 1. This Agreement shall continue in full force and effect until terminated by the Trustee or by the bearers of Certificates as hereinafter provided, but, subject to the provisions of Section 3 and Section 4 of this Article VI, shall terminate in any event on December 31, 1953.

SECTION 2. The Trustee, in the event specified in subdivision (g) of Section 1 of Article VII hereof or in the event specified in subdivision (c) of Section 6 of said Article VII, may terminate this Agreement prior to December 31, 1953, by publishing notice of such termination, specifying the date fixed therefor, once a week for four successive calendar weeks (in each instance on any day of the week) in a daily newspaper published and of general circulation in the Borough of Manhattan, City and State of New York, the first such publication to be made at least four weeks prior to the date specified in such notice.

SECTION 3. After the expiration of ninety (90) days after the date of termination of this Agreement, the Trustee shall proceed to sell all Stock Units and other property then held by it hereunder in accordance with the provisions of subdivision B of Section 4 of Article III hereof, and such sales shall be completed within thirty (30) days after the expiration of such period of ninety (90) days. Thereafter upon presentation and surrender, at the principal office of the Trustee in said Borough, of Certificates with all coupons maturing after ninety days after such termination of this Agreement appertaining thereto, the Trustee will pay to the bearers of such Certificates such part of all cash then held by it hereunder and not then distributable with respect to matured coupons as shall bear the same proportion to all of such cash (not distributable with respect to matured coupons) as the number of Corporate Trust Shares represented by such Certificates shall bear to the total number of Corporate Trust Shares then outstanding. All certificates and coupons so surrendered shall be cancelled by the Trustee.

SECTION 4. (a) The bearer of any Certificate or Certificates, at his option, at any time before the termination of this Agreement or within ninety (90) days thereafter, may surrender such Certificate or Certificates with all unmatured coupons appertaining thereto at the principal office of the Trustee, in the Borough of Manhattan, City and State of New York, and the Trustee (subject to the provisions of subdivisions (b) and (c) of this section 4) within the period of

three (3) days next following the date of such surrender (exclusive of days on which the New York Stock Exchange shall be closed) shall deliver to such bearer such part of the Deposited Property held by it on the date of such surrender (not then distributable with respect to matured coupons) as shall bear the same proportion to all such Deposited Property (not then distributable with respect to matured coupons) as the number of Corporate Trust Shares represented by such Certificate or Certificates shall bear to the total number of Corporate Trust Shares then outstanding. Subject to the provisions of subdivision (c) of this Section 4 all Certificates and coupons so surrendered shall be cancelled by the Trustee. Nothing contained in this Agreement shall be construed as repugnant to the option granted by the foregoing provisions of the subdivision (a) to the bearers of Certificates to terminate the trust with respect to the Corporate Trust Shares represented by their Certificates.

(b) In case upon the surrender of any Certificate or Certificates the bearer thereof is entitled to receive a fractional interest in one whole share of stock or other security (not exchangeable for instruments representing such fractional interest) or in other property (except cash), a sum in cash equal to the market value (as defined in Section 5 of this Article VI) of such fractional interest on the day next succeeding the date of such surrender (or, in case the New York Stock Exchange shall be closed on such day, on the next succeeding day on which the New York Stock Exchange shall be open), shall be paid to such bearer in lieu of such fractional interest. The Equitable Trust Company of New York, or its successor hereunder (or, if the Depositor furnishes the Trustee with the cash to make such payment, the Depositor) shall become the absolute owner of any such fractional interest in a share of stock, security or other property with respect to which such cash payment is made; and such fractional interest shall not be deemed to be part of the Deposited Property and upon the sale of such share of stock, security or other property The Equitable Trust Company of New York or the Depositor, as the case may be, shall receive such part of the proceeds of such sale as shall be applicable to such fractional interest.

(c) In case the number of Corporate Trust Shares represented by any Certificate or Certificates so surrendered by any bearer other than the Depositor shall not be evenly divisible by 2,000 so that the bearer thereof is entitled to receive a fractional part of a Stock Unit with respect to any of such Corporate Trust Shares, (A) the Depositor shall have the option to purchase such part of a Stock Unit and any cash and other property deliverable therewith, by paying to the bearer of such Certificate or Certificates in full payment therefor, a sum equal to such cash and the market value (as defined in Section 5 of this Article VI) of such part of a Stock Unit and of such other property on the day next succeeding the date of such surrender, or (in case the New York Stock Exchange shall be closed on such day) on the next succeeding day on which the New York Stock Exchange shall be open, and (B) as a service charge, the bearer of such Certificate or Certificates shall pay to the Depositor, if such option be exercised, or to The Equitable Trust Company of New York, individually and not as Trustee hereunder, if such option

shall not be exercised, a sum equal to 50 cents for each of the Corporate Trust Shares with respect to which such bearer is so entitled to receive a fractional part of a Stock Unit. In case of the exercise of any such option, the Depositor shall become the absolute owner of such part of a Stock Unit and of such cash and other property with respect to which such payment is made; and the Depositor may elect to cause the Trustee to retain as part of the Deposited Property under and subject to the terms of this Agreement such part of a Stock Unit and cash and other property, and shall in such case receive and become the owner of the Certificate or Certificates representing the Corporate Trust Shares so surrendered.

SECTION 5. The market value of any share of stock, subscription right or other security deposited with or held by the Trustee hereunder which shall be listed or dealt in upon the New York Stock Exchange or any other stock exchange or exchanges shall be determined by taking the average of the highest and lowest sale prices of a share of such stock or of such subscription right or of such other security (as the case may be) on the day upon which such market value is to be determined, as shown by any report of transactions on the New York Stock Exchange or such other exchange or one of such other exchanges (as the case may be) in common use; provided, however, that in case there shall be no sales on such date as shown by such report the market value shall be determined as equal to the price paid on the last sale of a share of such stock or of such subscription right or of such other security, so reported, next preceding the day as of which such market value is to be determined, plus interest accrued on any such security which bears interest from the day on which the sale so reported took place to the day as of which such market value is to be determined.

The market value of any such share of stock, subscription right, or other security which shall not be listed or dealt in on any exchange shall be determined as nearly as may be in the manner described in the next preceding paragraph, except that the Trustee shall use for the purpose of determining the sale price any published quotations in common use which may be available.

In the case of any property for which no market price quotations are available, the Trustee shall determine its market value and such determination shall be conclusive.

The market value of a fractional interest in any property shall be the result obtained by multiplying the market value of the property, determined as hereinabove in this Section 5 provided, by such fraction.

From the value so determined there shall in each case be subtracted a sum equal to the customary odd-lot brokerage commission then current and the amount of any taxes which would be payable by the seller in case such share of stock, subscription right or other property were sold and the result shall be deemed to be the market value thereof.

SECTION 6. (a) In case upon the surrender of any Certificate pursuant to the provisions of Section 3 or Section 4 of this Article VI, any dividend in cash, stock, or other property shall have been declared for payment to holders of record on or prior to the date upon

which such Certificate is so surrendered and shall not have been received by the Trustee, neither the part of such cash dividend nor the part of such stock or other property nor any sum representing a partial interest therein applicable to the Corporate Trust Shares represented by such Certificate shall be included in the distribution to be made on the surrender of such Certificate, but in lieu thereof the bearer of such Certificate shall receive a written order on the Trustee for payment of the part of such cash dividend, or the market value (as defined in Section 5 of this Article VI) of such part of such stock or other property on the date of actual receipt thereof by the Trustee, applicable to such Corporate Trust Shares, when, as, and if such dividend shall be actually received by the Trustee.

(b) Notwithstanding any provisions of Section 3 or Section 4 of this Article VI to the contrary, in case, upon the surrender of any Certificate pursuant to the provisions of either of said Sections, there shall be to the knowledge of the Trustee a liability, for taxes or otherwise, payable out of the Deposited Property, the amount of which in the judgment of the Trustee is not finally determined, the Trustee may withhold from the cash or cash and other property to be paid or delivered with respect to the Corporate Trust Shares represented by such Certificate, an amount estimated by it to be sufficient to cover the portion of such liability allocable to such Corporate Trust Shares and shall hold the amount so withheld separate and apart from the Deposited Property, and upon the final determination of such liability the Trustee shall pay or deliver to the bearer who surrendered such Certificate any balance of the cash or property remaining after payment or provision for payment therefrom of such portion of such liability.

SECTION 7. The Trustee shall not be required to make any payment with respect to a Certificate surrendered pursuant to the provisions of Section 3 or Section 4 of this Article VI unless and until an ownership certificate (in the form which may be required by any taxing authority having jurisdiction) shall have been duly completed and executed by the person surrendering such Certificate.

SECTION 8. In order to assist the bearers of Certificates in computing the amount of any income tax payable by them with respect to any income distributed to them upon the surrender of their Certificates pursuant to the provisions of Section 3 or Section 4 of this Article VI, the Depositor, within a reasonable time after payment thereof, will furnish to such bearers on demand a written or printed statement showing (a) the record dates, during the period commencing with the last preceding coupon payment date and ending on the date of such surrender, of all cash dividends, stock dividends, subscription rights, and other rights and distributions received by the Trustee with respect to the Deposited Property and the amount applicable to one Corporate Trust Share outstanding on such record dates of such cash dividends and distributions and of the net proceeds received by the Trustee from the sale (pursuant to the provisions of clause (a) of subdivision A of Section 4 of Article III of this Agreement) of such stock dividends, subscription rights, other rights and distributions; (b) the dates of receipt during such period and the amounts applicable to one Corporate Trust Share outstand-

ing on such dates of any interest received by the Trustee in respect of the Deposited Property; and (c) the dates during such period on which interest shall have been allowed by the Trustee in accordance with the provisions of Section 3 of Article III hereof and the amount thereof applicable to one Corporate Trust Share outstanding on such dates. The Depositor may cause such statements to be prepared by accountants ordinarily employed by it or the Trustee or by any representative firm of public accountants satisfactory to the Trustee, and the Trustee will cooperate in the preparation thereof. Neither the Depositor nor the Trustee shall in any event be responsible for the accuracy of any such statement or be liable for any loss or damage caused by anything contained in or omitted from any statement so prepared.

SECTION 9. Before making any distribution with respect to any Certificate upon the surrender thereof, the Trustee shall deduct the amount of all transfer taxes and other taxes, assessments, or other governmental charges, if any, in respect of the delivery of shares of stock or in respect of such distribution which the Trustee may be required to pay, deduct, or withhold under any present or future law of the United States of America or of any other taxing authority therein.

SECTION 10. The Trustee shall not be liable for any action taken or omitted by it in good faith under the provisions of this Article VI, but shall be liable only for its own wilful default or neglect.

ARTICLE VII—CONCERNING THE TRUSTEE

SECTION 1. The Trustee accepts the trusts created by this Agreement and agrees to execute them upon the terms and conditions hereof, including the following, to which the Trustee, the Depositor, and all bearers of Certificates by acceptance thereof agree, namely:

(a) The Trustee shall not be entitled to receive any compensation for its services or reimbursement for expenses incurred by it hereunder out of the Deposited Property except as in this Agreement expressly provided but may receive such compensation and reimbursement from the Depositor as may be agreed upon from time to time.

(b) The Trustee shall not be responsible for or in respect of the validity or sufficiency of this Agreement or of the due execution hereof by the Depositor, or for the form, genuineness, sufficiency, value, or validity of or endorsement on any shares of stock or other securities at any time forming part of a Stock Unit or otherwise deposited hereunder and the Trustee shall in no event assume or incur any liability, duty, or obligation other than as expressly provided for herein to any bearer of Certificates or to the Depositor if, by reason of any present or future law of the United States of America or of any State thereof or of any decree, order, or judgment of any court of the United States of America or of any State thereof, this agreement or anything herein contained shall be declared invalid or if for any cause not within its reasonable control the Trustee shall be in any way hindered, prevented, or restrained from doing or performing any act or thing which it is required to do or perform by the terms of this Agreement.

(c) The Trustee shall not be under any obligation to take any action toward the execution of any of the provisions of Section 5, Section 6, Section 7, or Section 8 of Article III of this Agreement, or to appear in, prosecute or defend any action, which in its opinion may involve it in expense or liability, unless, as often as required by the Trustee, it shall be furnished with reasonable security and indemnity against such expense or liability.

(d) The Trustee may employ agents or attorneys-in-fact and shall not be answerable for the default or misconduct of any such agent or attorney if such agent or attorney shall have been selected with reasonable care, and the Trustee shall be fully protected in respect of any action under this Agreement taken or suffered in good faith by the Trustee in accordance with the opinion of its counsel and in acting upon any resolution, vote, declaration, request, demand, order, notice, waiver, appointment, consent, certificate, affidavit, statement, or market report, or upon any other paper or document believed by it to be genuine and to have been passed, signed, executed, acknowledged, verified, published, or delivered by the proper party.

(e) For proof of any fact the Trustee may rely on a certificate with respect thereto signed by the President or a Vice-President or the Treasurer or an Assistant Treasurer of the Depositor.

(f) Any notice, consent, direction, request, order or certificate required or permitted by this Agreement to be given or made by the Depositor shall (except where otherwise expressly provided herein) be sufficiently given or made if expressed by a writing signed by the Depositor by its President or one of its Vice-Presidents or its Treasurer or by any Agent of the Depositor thereunto appointed by its President or one of its Vice-Presidents. If at any time the Depositor shall fail to give or make any such notice, consent, direction, request, order or certificate as required by this Agreement, and no express provision is made for the action to be taken by the Trustee in such event, the Trustee may act hereunder without any such notice, consent, direction, request, or order in its own absolute discretion. The Trustee shall not be liable for any action taken or omitted by it in good faith under this clause (f), but shall be liable only for its willful default or neglect.

(g) In no event shall the Trustee be personally liable for any assessments made on shares of stock or other property held by it, or for any taxes or other governmental charges imposed upon the Deposited Property or upon the income therefrom or upon it as Trustee hereunder which it may be required to pay under any present or future law of the United States of America or of any other taxing authority therein. For all such taxes and charges the Trustee shall be reimbursed and indemnified, first out of currently distributable funds, next out of the Reserve Fund, and then out of the net cash proceeds of sales of Deposited Property made after the termination of this Agreement. For any expenses and counsel fees it may sustain or incur with respect to any action or suit relating to such taxes or charges the Trustee shall be reimbursed and indemnified out of the Reserve Fund and then out of the net cash proceeds of sales of Deposited Property made after the termination of this Agreement. For any such assessments and for all expenses and counsel fees it

may sustain or incur with respect to any action or suit relating to the collection thereof the Trustee shall reimburse itself out of the funds and in the manner specified in Section 8 of Article III. In the event that the sum of (1) amounts payable by the Trustee for such taxes and for all expenses and counsel fees it may sustain or incur with respect to any action or suit relating thereto, and (2) amounts payable by the Trustee for assessments with respect to shares of stock held by the Trustee and for all expenses and counsel fees it may sustain or incur with respect to any action or suit relating to the collection thereof (less the market value, as defined in Section 5 of Article VI, of the shares so held and subject to such assessments) shall at any time exceed the sum of (A) currently distributable funds then on deposit with the Trustee, (B) the Reserve Fund then on deposit with the Trustee, (C) dividends declared with respect to securities then held by the Trustee, (D) the market value (as defined in Section 5 of Article VI) of distributions of property other than cash declared with respect to securities then held by the Trustee, and (E) the market value (as defined in Section 5 of Article VI) of any other property other than Stock Units then held by the Trustee, the Trustee may terminate the Agreement, without the consent of the Depositor, in the manner provided in Section 2 of Article VI.

SECTION 2. The Trustee covenants and agrees that except as herein otherwise expressly provided, no person or persons nominated by it to hold any shares of stock forming part of Stock Units deposited with it hereunder shall (a) pledge, sell, or otherwise dispose of such shares of stock; (b) exercise any right to vote or execute any proxy to vote or consent with respect thereto; or (c) receive, hold, or dispose of any income or proceeds from, or out of, or distribution upon or with respect to any such shares of stock for his, their, or its account or otherwise than for the account of the Trustee.

SECTION 3. The Trustee shall keep proper books of record and account of all transactions hereunder at its principal office in the Borough of Manhattan, City and State of New York, and such books and records shall be open to inspection by the Depositor or by any bearer of not less than 2,000 Corporate Trust Shares, at any reasonable time during usual business hours.

SECTION 4. The Trustee shall keep a duplicate original of this Agreement at its principal office in the Borough of Manhattan, City and State of New York. Such duplicate original shall be open to inspection at all times during the usual business hours by any bearer of Certificates. The Depositor shall also cause a reasonable supply of copies of this Agreement to be kept at said office of the Trustee and upon receipt of the sum of \$1.00 the Trustee shall deliver a copy hereof to any person applying therefor.

SECTION 5. Any company into which the Trustee may be merged or with which it may be consolidated, or any company resulting from any merger or consolidation to which the Trustee shall be a party, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein contained to the contrary notwithstanding. In case any of the Certificates issued hereunder shall have been executed but not delivered, any such successor Trustee may

adopt the execution of such Certificates by the former Trustee and deliver the same to the Depositor.

SECTION 6. (a) The Trustee may resign and may be discharged from the trusts created by this Agreement at any time by publishing a notice, specifying a date when such resignation shall take effect, once a week for four successive calendar weeks (in each instance on any day of the week) in a daily newspaper published and of general circulation in the Borough of Manhattan, City and State of New York, the first such publication to be made at least thirty days prior to the date specified in such notice on which such resignation is to take effect. A copy of such notice shall be mailed to the Depositor at the time of the first such publication. Such resignation shall take effect on the day specified in such notice unless, at or prior to such date, a successor Trustee shall have been appointed as provided in subdivision (b) of this Section 6.

(b) Prior to the date specified by the Trustee in said notice when its resignation shall take effect, the Depositor by instrument executed under its corporate seal by order of its Board of Directors and mailed to the Trustee at its principal office in the Borough of Manhattan, City and State of New York, shall appoint a successor Trustee to fill any vacancy caused by the resignation of the Trustee, such instrument to be accompanied by a statement in writing by the successor Trustee so appointed accepting such appointment. After such appointment by the Depositor it shall forthwith cause notice thereof to be published at least once a week for four successive calendar weeks (in each instance upon any day of the week) in a daily newspaper published and of general circulation in said Borough.

(c) In case the Trustee shall give such notice of resignation and the Depositor shall fail to appoint a successor Trustee prior to the date fixed in such notice for such resignation to take effect, the Trustee may terminate this Agreement in the manner hereinabove in Section 2 of Article VI provided.

SECTION 7. In case for any reason the Trustee shall become unable to act as such hereunder the Depositor forthwith shall appoint a successor Trustee as hereinabove in subdivision (b) of Section 6 of this Article VII provided, and shall cause notice of such appointment to be published as provided in said subdivision (b).

SECTION 8. Every Trustee hereunder shall have an office in said Borough and shall be either a trust company organized and existing under the Banking Law of the State of New York or a national banking association incorporated under the laws of the United States, having trust powers. Upon the appointment of any successor Trustee, all rights, powers, and duties of the Trustee hereunder with respect to all the Deposited Property then held by the retiring or predecessor Trustee hereunder shall immediately vest in the new Trustee and without any further act, deed, conveyance, or transfer; but the retiring Trustee forthwith upon the written request of the new Trustee and upon payment or assumption of any liabilities constituting a charge thereon by the new Trustee or the Depositor shall deliver to the new Trustee certificates, duly endorsed in blank by the record holder thereof or accompanied by all instruments of assignment and transfer necessary to permit the registration thereof in the name of the new Trustee or

of its nominee or nominees, for all shares of stock forming part of Stock Units then held by the retiring Trustee, together with such other instruments in writing as may be appropriate to vest or confirm in the new Trustee all rights, powers, and duties of the Trustee hereunder with respect to all other securities, moneys, and property of every kind held by the retiring Trustee hereunder. The clauses herein contained and referring to the Trustee shall be applicable to any Trustee for the time being hereunder.

ARTICLE VIII—MISCELLANEOUS

SECTION 1. No bearer of any Certificate shall have any right to vote or consent in respect of shares of stock held by the Trustee hereunder.

SECTION 2. This Agreement was executed and delivered in the State of New York and the provisions hereof shall be construed under, and all rights hereunder shall be governed by, the laws of said State.

SECTION 3. The words "bearer," "Certificate," "Corporate Trust Share," "coupon" and "talon" shall include the plural as well as the singular unless the context otherwise indicates.

SECTION 4. The terms "Depositor" and "American Depositor Corporation" wherever used herein shall be taken to mean the corporation of such name organized and existing under the laws of the State of New York, or any successor of such corporation formed pursuant to the reorganization, consolidation, or merger of such corporation, and this Agreement shall inure to the benefit of and bind any such successor.

SECTION 5. Any notice to be given to the Depositor hereunder shall be duly given if mailed or delivered to the Depositor, at No. 60 Wall St., Borough of Manhattan, New York City, or at such other address as shall be specified by the Depositor to the Trustee in writing.

SECTION 6. Nothing herein contained or contained in the Certificates shall be construed so as to constitute the bearers of Certificates partners or members of an association. The bearers of Certificates shall in no event incur any liability or obligation hereunder except as expressly provided for in Section 4 of Article IV and in subdivision (c) of Section 4 of Article VI hereof, and all persons dealing with the Trustee shall, as regards the liability of either the bearers of Certificates, of the Depositor and of the Trustee, look only to the Deposited Property for satisfaction of claims of any sort.

SECTION 7. The death or incapacity of the bearer of a Certificate shall not terminate this Agreement nor entitle his legal representatives to claim an accounting or to take any action or proceedings in court for a partition or winding up of the Deposited Property nor otherwise affect the rights, obligations, and liabilities of the parties hereto or any of them; but the legal representatives of any decedent bearer or of any bearer who shall be or become incapable shall succeed to or be vested with all the rights, obligations, and liabilities, under this Agreement and the Certificates, of such decedent bearer or such bearer who shall be or become incapable. Each bearer of a Certificate and each bearer of a coupon by acceptance thereof expressly waives any right he may have under any rule of law or the provisions of any statute or otherwise to require the Trustee at any

time to account with respect to moneys or other property from time to time received, held, and applied by the Trustee hereunder.

SECTION 8. The Depositor shall in no event be liable for any action taken or omitted by it under the provisions of this Agreement, nor for anything whatsoever in connection with the trusts created hereby, except its own wilful misconduct or gross negligence.

SECTION 9. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together shall be deemed one and the same instrument.

IN WITNESS WHEREOF, AMERICAN DEPOSITOR CORPORATION has caused this Trust Agreement to be executed by its President or one of its Vice-Presidents, and its corporate seal to be hereunto affixed and attested by its Secretary or one of its Assistant Secretaries, and THE EQUITABLE TRUST COMPANY OF NEW YORK has caused this Trust Agreement to be executed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed by one of its Assistant Secretaries, all as of the first day of January 1929, but actually executed and delivered in the City and State of New York this 6th day of June 1929.

[CORPORATE SEAL]

AMERICAN DEPOSITOR CORPORATION,
By CEDRIC H. SMITH, *Vice-President*.

Attest:

W. A. BONG,
Secretary.

Signed, sealed, and delivered by AMERICAN DEPOSITOR CORPORATION, in the presence of GEO. H. MURPHY.

THE EQUITABLE TRUST COMPANY OF NEW YORK,
By S. ARMSTRONG, *Vice-President*.

[CORPORATE SEAL]

Attest:

H. A. HIBBERD,
Assistant Secretary.

Signed, sealed, and delivered by THE EQUITABLE TRUST COMPANY OF NEW YORK, in the presence of JOSEPH HUBER.

STATE OF NEW YORK,
County of New York, ss:

On the 6th day of June, in the year 1929, before me personally came CEDRIC H. SMITH, to me known, who being by me duly sworn, did depose and say that he resides in the village of Kenilworth, Cook County, Illinois; that he is the Vice-President of AMERICAN DEPOSITOR CORPORATION, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

[NOTARIAL SEAL]

WALTER S. NELSON,
Notary Public, Kings County.

Clerk's No. 95, Register's No. 218, New York Co. No. 258, Register's No. 0-176, Queens Co. No. 1214, Register's No. 3673.

Commission Expires March 30, 1930.

STATE OF NEW YORK,

County of New York, ss:

On the 6th day of June, in the year 1929, before me personally came S. ARMSTRONG, to me known, who being by me duly sworn did depose and say that he resides in Westfield, Union County, New Jersey; that he is a Vice-President of THE EQUITABLE TRUST COMPANY OF NEW YORK, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Trustees of said corporation and that he signed his name thereto by like order.

[NOTARIAL SEAL]

WALTER S. NELSON,
Notary Public, Kings County.

Clerk's No. 95, Register's No. 218, New York Co. No. 258, Register's No. 0-176, Queens Co. No. 1214, Register's No. 3673.

Commission Expires March 30, 1930.

AMERICAN DEPOSITOR CORPORATION, DEPOSITOR, and
THE CHASE NATIONAL BANK OF THE CITY OF NEW
YORK (Successor to the Equitable Trust Company of New York),
TRUSTEE

AGREEMENT

**SUPPLEMENTAL TO TRUST AGREEMENT DATED AS OF
JANUARY 1, 1929, RELATING TO CORPORATE TRUST
SHARES**

DATED MAY 28, 1931

Agreement dated the 28th day of May 1931, between AMERICAN DEPOSITOR CORPORATION, a corporation duly organized and existing under the laws of the State of New York, as Depositor under the Trust Agreement hereinafter referred to (hereinafter called the Depositor), party of the first part, THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK, a national banking association duly organized and existing under the laws of the United States of America, successor to The Equitable Trust Company of New York, as Trustee under said Trust Agreement (hereinafter called the Trustee), party of the second part, and the bearers, from time to time, of certificates (hereinafter called the Certificates), for Corporate Trust Shares issued and to be issued under said Trust Agreement, parties of the third part;

WHEREAS, the Depositor and the Trustee are the Depositor and the Trustee, respectively, under the Trust Agreement (hereinafter called the Trust Agreement), dated as of the 1st day of January, 1929, to which the Depositor, the Trustee, and the bearers, from time to time, of Certificates for the Corporate Trust Shares issued and to be issued thereunder, are parties; and

WHEREAS, the Depositor wishes and the Trustee agrees, for the benefit of the bearers of Certificates, to make certain modifications with respect to the amount of the service charge payable under the provisions of subdivision (c) of Section 4 of Article VI of the Trust Agreement upon the surrender of Certificates for a number of Corporate Trust Shares not evenly divisible by 2,000 as contemplated by said subdivision (c);

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the premises and of the purchase of Certificates from the Depositor, the Depositor and the Trustee, each for itself and not for the other, agree with the bearers, from time to time, of Certificates issued and to be issued under the Trust Agreement, as follows:

(1) The Depositor and the Trustee, severally, hereby forever waive the payment of any service charges, payable upon the surrender of any Certificate or Certificates for a number of Corporate Trust Shares not evenly divisible by 2,000 as contemplated by subdivision (c) of Section 4 of Article VI of the Trust Agreement, in excess of the service charges hereinafter provided for, and severally agree that the amount of such service charges shall be determined in accordance with the provisions of this Agreement.

(2) The Depositor hereby agrees that in case, (i) upon the surrender of any Certificate or Certificates representing a number of Corporate Trust Shares not evenly divisible by 2,000 as contemplated by subdivision (c) of Section 4 of Article VI of the Trust Agreement (pursuant to which surrender the bearer thereof is entitled to receive a fractional part of a Stock Unit with respect to any of such Corporate Trust Shares), the Depositor shall exercise the option provided for in Clause (A) of said subdivision (c), and (ii) the bearer

of such Certificate or Certificates shall not, or shall not be entitled to, exercise the option provided for in paragraph 4 thereof, then the service charge payable by such bearer pursuant to said subdivision (c) shall be 2% of the sum payable by the Depositor to such bearer upon its exercise of such option: provided, however, that the amount of such service charge shall in no event exceed fifty cents for each Corporate Trust Share with respect to which such bearer is so entitled to receive a fractional part of a Stock Unit, although the market value of such part of a Stock Unit shall appreciate to a point at which the service charge so payable by such bearer would otherwise exceed fifty cents for each such Corporate Trust Share.

(3) The Trustee hereby agrees that in case, upon the surrender of any Certificate or Certificates representing a number of Corporate Trust Shares not evenly divisible by 2,000, as contemplated by subdivision (c) of Section 4 of Article VI of the Trust Agreement (pursuant to which surrender the bearer thereof is entitled to receive a fractional part of a Stock Unit with respect to any of such Corporate Trust Shares), the Depositor shall not exercise the option provided for in Clause (A) of said subdivision (c), the service charge payable by such bearer pursuant to said subdivision (c) shall be 2% of a sum equal to the amount of cash payable by the Trustee to such bearer upon such surrender plus the market value (as defined in Section 5 of Article VI of the Trust Agreement) of the shares of stock and other property (except cash) deliverable by the Trustee to such bearer upon such surrender on the day next succeeding the date of such surrender (or, in case the New York Stock Exchange shall be closed on such day, on the next succeeding day on which the New York Stock Exchange shall be open); provided, however, that the amount of such service charge shall in no event exceed fifty cents for each Corporate Trust Share with respect to which such bearer is so entitled to receive a fractional part of a Stock Unit, although the market value of such part of a Stock Unit shall appreciate to a point at which the service charge so payable by such bearer would otherwise exceed fifty cents for each such Corporate Trust Share.

(4) The Depositor agrees that in case, pursuant to the surrender of any Certificate or Certificates representing a number of Corporate Trust Shares not evenly divisible by 2,000 (entitling the bearer thereof to receive a fractional part of a Stock Unit with respect to any of such Corporate Trust Shares), as contemplated by subdivision (c) of Section 4 of Article VI of the Trust Agreement, and to the exercise by the Depositor of the option provided for in said subdivision (c), the shares of common stock of the respective constituent companies in respect of the market value of which the Depositor is required to pay a sum in cash to such bearer shall together constitute one or more quarters of a Stock Unit, as defined in the Trust Agreement, the Depositor, at the option of such bearer (exercised by delivering to the Depositor, at the time of the surrender of such Certificate or Certificates, a notice of such exercise, in form satisfactory to the Depositor, and duly executed by such bearer), shall deliver to such bearer (in lieu of any payment in cash in respect of the market value of such shares of stock) certificates in negotiable form for transfer, for a number of shares of common stock of the respective constituent

companies equivalent to such one or more quarters of a Stock Unit; and in such event the service charge payable by such bearer to the Depositor pursuant to said subdivision (c) shall be $\frac{1}{2}$ of 1% of a sum equal to the market value (as defined in Section 5 of Article VI of the Trust Agreement) of the shares of stock so deliverable to such bearer in kind on the day next succeeding the date of such surrender (or, in case the New York Stock Exchange shall be closed on such day, on the next succeeding day on which the New York Stock Exchange shall be open) plus the amount of any cash payable by the Depositor to such bearer upon such surrender; provided, however, that the amount of such service charge shall in no event exceed fifty cents for each Corporate Trust Share with respect to which such bearer is so entitled to receive a fractional part of a Stock Unit, although the market value of such part of a Stock Unit shall appreciate to a point at which the service charge so payable by such bearer would otherwise exceed fifty cents for each such Corporate Trust Share. The Depositor shall not be required to make any such delivery unless and until the bearer of such Certificate or Certificates shall pay the amount of all transfer taxes, if any, in respect of such delivery.

IN WITNESS WHEREOF, American Depositor Corporation has caused this Agreement to be executed by its President or one of its Vice-Presidents, and its corporate seal to be hereunto affixed and attested by its Secretary or one of its Assistant Secretaries, and The Chase National Bank of the City of New York has caused this Agreement to be executed by one of its Vice-Presidents, and its corporate seal to be hereunto affixed and attested by one of its Assistant Trust Officers, all as of the 28th day of May 1931.

[CORPORATE SEAL]

AMERICAN DEPOSITOR CORPORATION,
By J. Y. ROBBINS, *Vice President*.

Attest:

W. A. BONG, *Secretary*.

Signed, sealed, and delivered by AMERICAN DEPOSITOR CORPORATION, in the presence of GEO. H. MURPHY.

[CORPORATE SEAL]

THE CHASE NATIONAL BANK OF THE
CITY OF NEW YORK,
By S. ARMSTRONG, *Vice President*.

Attest:

O. P. FARWELL,
Assistant Trust Officer.

Signed, sealed, and delivered by THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK, in the presence of JOSEPH HUBER.

STATE OF NEW YORK,

County of New York, ss:

On the 28th day of May, in the year 1931, before me personally came J. Y. ROBBINS, to me known, who being by me duly sworn did depose and say that he resides in Montclair, New Jersey; that he is a Vice-President of AMERICAN DEPOSITOR CORPORATION, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to

said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

[NOTARIAL SEAL]

C. E. VAN NAME,
Notary Public, Richmond County.

Certificate Filed New York County. Clerk's No. 37, Register's No. 3 V 25. Commission Expires March 30, 1933.

STATE OF NEW YORK,
County of New York, ss:

On the 28th day of May, in the year 1931, before me personally came S. ARMSTRONG, to me known, who being by me duly sworn did depose and say that he resides in Westfield, New Jersey; that he is a Vice-President of THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

[NOTARIAL SEAL]

C. E. VAN NAME,
Notary Public, Richmond County.

Certificate Filed New York County. Clerk's No. 37, Register's No. 3 V 25. Commission Expires March 30, 1933.

APPENDIX F

Distribution Accounts for Certain Fixed Trusts, Classified by Sponsorship Groups

Distribution accounts are set out in this appendix showing receipts and disbursements for the fixed trusts sponsored by the six leading sponsors of such trusts for the years 1927 to 1935, inclusive. These sponsors are Distributors Group, Incorporated, Maryland Sponsors, Inc., Calvin Bullock, Massachusetts Distributors, Inc., Transcontinent Shares Corporation, and Super-Corporations of America Depositors, Inc.

The figures herein were taken from the replies to the Commission's questionnaire for the trusts named.

Distribution Accounts of Fixed Trusts Sponsored by Distributors Group, Inc., 1927-35^a

	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>								
Carry-over from previous periods.....		\$2,243	\$18,375	\$18,669	\$37,840	\$20,554	\$20,193	\$117,904
Interest received.....		65	1,456	8,352	115,763	203,903	291,524	621,063
Cash dividends received.....	\$434,988	2,451,410	5,086,177	3,274,496	2,487,420	2,231,315	2,051,132	18,016,938
Total interest and cash dividends received.....	434,988	2,451,475	5,087,633	3,282,848	2,603,183	2,435,218	2,342,656	18,638,001
Proceeds of sale of stock dividends, rights, etc.....	839,868	11,759,636	27,859	104,096	331,855	62,572	25,974	13,151,860
Proceeds of sale of eliminated securities.....				1,483,138	300,629	104,475	1,110,510	2,998,752
Other receipts.....					9	55	2,583	2,647
Transfers from reserves.....			5,617,803	698,875	174,568			6,491,246
Equalization credits with respect to newly issued shares.....	1,555,341	7,942,680	1,493,776	670,430	59,171	33,145	55,699	11,810,242
Total gross receipts.....	2,830,197	22,156,034	12,245,446	6,258,086	3,507,255	2,656,019	3,557,615	53,210,652
<i>Disbursements</i>								
Trustee's fees.....				305	5,254	9,868	14,633	30,060
Taxes.....					46,170	12,634		58,804
Trustee's expenses.....					235	56	63	354
Legal expense.....				8,720	1,845	616	11,952	23,133
Auditing expense.....								
Other expenses.....								
Equalization debts with respect to shares surrendered for redemption.....			1,057,362	748,579	105,362	147,358	105,167	2,163,828
Total disbursements.....			1,057,362	757,604	158,866	170,532	131,815	2,276,179
Net receipts.....	2,830,197	22,156,034	11,188,084	5,500,482	3,348,389	2,485,487	3,425,800	50,934,473
<i>Disposition of net receipts</i>								
Distributions to shareholders.....								
Transfers to reserves.....	2,827,954	22,137,660	11,169,386	5,462,642	3,327,835	2,465,294	3,404,014	50,794,785
Carry-over to next period.....								
Other dispositions.....	2,243	18,374	18,698	37,840	20,554	20,193	21,786	139,688

^a Includes North American Trust Shares, Series 1953, from 1929 on; Cumulative Trust Shares from 1930 on; North American Trust Shares, Series 1955, and North American Trust Shares, Series 1956, from 1931 on; North American Bond Trust Shares, Series 1958, from 1933 on.

Distribution Accounts of Fixed Trusts Sponsored by Maryland Sponsors, Inc., 1927-35 ^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>										
Carry-over.....		\$896	\$851	\$4,637	\$30,077	\$22,509	\$269			\$59,239
Interest received.....		1,927	11,972	74,533	92,311	8,901	2,203			191,847
Cash dividends received.....	\$14,799	235,143	457,042	1,800,155	4,573,092	2,637,686	1,346,835	\$860,290	\$701,493	12,646,535
Total interest and cash dividends received.....	14,799	237,070	469,014	1,874,688	4,665,403	2,666,587	1,349,038	860,290	701,493	12,838,382
Proceeds of sale of stock dividends, etc.....	2,294	107,573	237,198	230,144	3,330	79,765	124,947	36,442	15,928	837,621
Proceeds of sale of eliminated securities.....						214,603	1,313,038	198,720	30,594	1,756,955
Other receipts.....			45,312	3,911,329	7,605	4,557				3,968,803
Transfers from reserves.....		44,492	26,004	76,948	6,431,074	481,616	85,898			7,146,032
Equalization credits with respect to newly issued shares.....	63,356	115,693	795,918	7,487,758	1,307,553	331,391				10,101,669
Total gross receipts.....	80,449	505,724	1,574,297	13,585,504	12,445,042	3,801,028	2,873,190	1,095,452	748,015	36,708,701
<i>Disbursements</i>										
Trustee's fees.....										
Taxes.....										
Trustee's expenses.....										
Legal expense.....										
Auditing expense.....										
Other expenses.....										
Equalization debits with respect to shares surrendered for redemption.....		1,884	120,139	32,645	972,126	594,480	461,999	113,076	47,981	2,344,330
Total disbursements.....		1,884	120,139	32,645	972,126	594,480	461,999	113,076	47,981	2,344,330
Net receipts.....	80,449	503,840	1,454,158	13,552,859	11,472,916	3,206,548	2,411,191	982,376	700,034	34,364,371
<i>Disposition of net receipts</i>										
Distributions to shareholders.....	75,000	431,000	1,318,919	13,511,163	11,450,407	3,206,279	2,411,191	982,376	700,034	34,086,369
Transfers to reserves.....	4,552	71,989	130,602	11,619						218,762
Carry-over to next period.....	897	851	4,637	30,077	22,509	269				59,240
Other dispositions.....										

^a Includes: Basic Industry Shares from 1927 on; Fixed Trust Shares, Original Series, from 1928 on; Fixed Trust Shares, Series B, and Corporate Trust Shares, Original Series, from 1929 on; Corporate Trust Shares, Accumulative Series, from 1931 on; Corporate Trust Shares, Series AA, and 5-Year Fixed Trust Shares, from 1931 on; Corporate Trust Shares, Accumulative Series (Modified) and Corporate Trust Shares, Series AA (Modified), from 1933 on.

Distribution Accounts of Fixed Trusts Sponsored by Calvin Bullock, 1927-35 *

	1927	1928	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>										
Carry-over from previous periods	\$99	\$18	\$161	\$1,806	\$7,575	\$20,845	\$85,966	\$16,913	\$9,480	\$142,863
Interest received		2,610	10,115	17,920	12,675	11,776	5,721	867	197	61,881
Cash dividends received	113,544	951,419	1,358,999	1,494,475	2,166,900	2,505,565	1,596,116	1,007,172	732,439	11,926,629
Total interest and cash dividends received	113,544	954,029	1,369,114	1,512,395	2,179,575	2,517,341	1,601,837	1,008,039	732,636	11,988,510
Proceeds of sale of stocks dividends, rights, etc.	87,750	674,746	2,095,044	1,657,677	1,227,859	372,408	237,203	77,512	2,231	6,432,430
Proceeds of sale of eliminated securities		86,279	9,029	101,578	11,135				5,767	213,788
Other receipts					5,209				82	5,291
Transfers from reserves					5,453				14,153	19,606
Equalization credits with respect to newly issued shares	97,372	382,755	50,193	230,066	359,562	101,668				1,221,616
Total gross receipts	298,765	2,097,827	3,523,541	3,503,522	3,796,363	3,012,262	1,925,006	1,102,464	764,349	20,024,104
<i>Disbursements</i>										
Trustee's fees								7,771	419	24,436
Taxes					5,209	372	10,665	1,580	1,463	6,925
Trustee's expenses				36		1,252	2,594	2,346	2,848	5,494
Legal expenses					300			1,875	1,525	5,275
Auditing expenses								2,501	1,193	61,403
Other expenses				4,520	30,945	18,943	3,301			
Equalization debits with respect to shares surrendered for redemption			14,413	145,492	78,654	36,229	90,013	97,332	15,691	477,824
Total disbursements			14,413	150,048	115,108	56,796	108,448	113,405	23,139	581,357
Net receipts	298,765	2,097,827	3,509,128	3,353,474	3,681,260	2,955,466	1,816,558	989,059	741,210	19,442,747
<i>Disposition of net receipts</i>										
Distribution to shareholders	294,848	1,920,213	3,083,153	3,087,515	3,458,249	2,869,500	1,799,645	979,580	726,692	18,219,400
Transfers to reserves	3,899	177,453	419,384	258,384	202,166				239	1,061,525
Carry-over to next period	18	161	1,806	7,575	20,845	85,966	16,913	9,479	14,279	157,042
Other disposition			4,780							4,780

* Includes: United States Electric Light & Power Shares, Trust Certificates, Series A, and Nationwide Securities Co., Trust Certificates, Series A, from 1927 on; United States Electric Light & Power Shares, Trust Certificates, Series B, and Nationwide Securities Co., Trust Certificates, Series B, from 1930 on.

Distribution Accounts of Fixed Trusts Sponsored by Massachusetts Distributors, Inc., 1927-35^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>										
Carry-over from previous periods.....	\$15	\$10	\$24	\$778	\$519	\$242	\$440	\$7,190	\$155	\$9,373
Interest received.....				2,171	4,167	2,216	397			8,951
Cash dividends received.....	86,002	476,393	813,243	1,213,763	1,679,102	1,197,961	802,298	733,034	791,345	7,793,141
Total interest and cash dividends received.....	86,002	476,393	813,243	1,215,934	1,683,269	1,200,177	802,695	733,034	791,345	7,802,092
Proceeds, sale of stock dividends, rights, etc.....	74,708	406,613	432,144	636,179	281,835	98,212	52,386	21,327	17,410	2,020,814
Proceeds, sale of eliminated securities.....							168,720			168,720
Other receipts.....				9,743						9,743
Transfers from reserves.....										
Equalization credits, with respect to newly issued shares.....	77,865	210,837	338,564	410,441	273,072	85,720	4,312			1,400,811
Total gross receipts.....	238,590	1,093,853	1,583,975	2,273,075	2,238,695	1,384,351	1,028,553	761,551	808,910	11,411,553
<i>Disbursements</i>										
Trustees' fees.....										
Taxes.....										
Trustees' expenses.....										
Legal expense.....			50			7,029				7,079
Auditing expense.....										
Other expenses.....										
Equalization debits with respect to shares surrendered for redemption.....		62,492	78,415	192,050	51,613	35,150	49,484	24,941	29,165	523,310
Total disbursements.....		62,492	78,465	192,050	51,613	42,179	49,484	24,941	29,165	530,389
Net receipts.....	238,590	1,031,361	1,505,510	2,081,025	2,187,082	1,342,172	979,069	736,610	779,745	10,881,164
<i>Disposition of net receipts</i>										
Distributions to shareholders.....										
Transfers to reserves.....	238,580	1,031,337	1,504,732	2,080,506	2,186,840	1,341,732	971,879	736,455	779,576	10,871,637
Carry-over to next period.....	10	24	778	519	242	440	7,190	155	169	9,527
Other dispositions.....										

^a Includes: Diversified Trustee Shares, Original Series, from 1927-34; Diversified Trustee Shares, Series B, from 1928 on; Diversified Trustee Shares, Series C, from 1929 on; Diversified Trustee Shares, Series D, from 1931 on.

Distribution Accounts of Fixed Trusts Sponsored by Transcontinent Shares Corporation (Bank and Insurance Shares, Inc.), 1927-35^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>										
Carry-over from previous periods.....				\$57,433	\$47,656	\$60,262	\$77,367	\$97,556	\$166,840 ¹ / ₂	\$507,114
Interest received.....			\$118		1,104	1,000	1,045	942	43	4,252
Cash dividends received.....			35,809	90,694	142,713	146,009	218,010	324,000	474,701	1,431,936
Total interest and cash dividends received.....			35,927	90,694	143,817	147,009	219,055	324,942	474,744	1,436,188
Proceeds of sale of stock dividends, rights, etc.....			42,230	16,615	5,509	1,005	658	626	248	66,891
Proceeds of sale of eliminated securities.....			2,300							2,300
Other receipts.....										
Transfers from reserves.....				38,783	68,767	19,852			373	127,775
Equalization credit with respect to newly issued shares.....			58,726	39,697	41,520	46,862	40,790	63,152	110,349	401,096
Total gross receipts.....			139,183	243,222	307,269	274,990	337,870	486,276	752,554	2,541,364
<i>Disbursements</i>										
Trustees' fees.....										
Taxes.....										
Trustees' expenses.....										
Legal expense.....										
Auditing expense.....										
Other expenses.....			3,375	16,600	23,050	9,950	5,990	4,275	3,750	66,990
Equalization debits with respect to shares surrendered for redemption.....				4,381	20,075	6,474	1,985	609	799	34,323
Total disbursements.....			3,375	20,981	43,125	16,424	7,975	4,884	4,549	101,313
Net receipts.....			135,808	222,241	264,144	258,566	329,895	481,392	748,005	2,440,051
<i>Disposition of net receipts</i>										
Distributions to shareholders.....			44,626	170,113	203,882	181,199	232,339	314,552	520,924	1,667,635
Transfers to reserves.....			33,749	4,472						38,221
Carry-over to next period.....			57,433	47,656	60,262	77,367	97,556	166,840	227,081	734,195
Other dispositions.....										

^a Includes: Deposited Bank Shares, Series N. Y., and Deposited Bank Shares, Series B-1, from 1929 on; Deposited Bank Shares, N. Y., Series A, and Deposited Insurance Shares, Series A, from 1930 on.

Distribution Accounts of Fixed Trusts Sponsored by Super-Corporations of America Depositors, Inc., 1927-35 *

	1927	1928	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>										
Carry-over from previous periods.....						\$1,527	\$8,860	\$1,826	\$267	\$12,480
Interest received.....				\$3,823	\$23,223	14,077	1,754	90	25	42,992
Cash dividends received.....				118,808	1,234,917	1,364,107	664,157	219,575	170,919	3,772,483
Total interest and cash dividends received.....				122,631	1,258,140	1,378,184	665,911	219,665	170,944	3,815,475
Proceeds of sale of stock dividends, rights, etc.....				208,543	181,649	55,577	45,538	3,207	3,142	497,656
Proceeds of sale of eliminated securities.....						198,774	250,350			458,124
Other receipts.....										
Transfers from reserves.....					846,572	789,848	45,764			1,682,184
Equalization credits with respect to newly issued shares.....				477,490	504,919	159,564	390			1,142,363
Total gross receipts.....				808,664	2,791,280	2,583,474	1,025,813	224,698	174,353	7,608,282
<i>Disbursements</i>										
Trustees' fees.....										
Taxes.....										
Trustees' expenses.....										
Legal expense.....										
Auditing expense.....										
Other expenses.....										
Equalization debits with respect to shares surrendered for redemption.....				3,729	4,782	354,653	231,860	32,933	20,997	648,954
Total disbursements.....				3,729	4,782	354,653	231,860	32,933	20,997	648,954
Net receipts.....				804,935	2,786,498	2,228,821	793,953	191,765	153,356	6,959,328
<i>Disposition of net receipts</i>										
Distributions to shareholders.....				804,935	2,784,971	2,219,961	775,655	191,498	153,063	6,930,023
Transfers to reserves.....							16,472			16,472
Carry-over to next period.....					1,527	8,860	1,826	267	353	12,833
Other disposition.....										

* Includes: Super-Corporations of America, Trust Shares, Series A, and Super-Corporations of America, Trust Shares Series, C, and Super-Corporations of America, Trust Shares, Series D, from 1931 on; Super-Corporations of America, Trust Shares, Series A.A., and Super-Corporations of America, Trust Shares, Series B.B., from 1932 on.

Distribution Accounts of Fixed Trust of Miscellaneous Sponsorship, 1927-35^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935	Total
<i>Gross receipts</i>										
Carry-over from previous period.....					\$1,474	\$26,363	\$63,602	\$60,252	\$54,351	\$206,042
Interest received.....				\$193	3,938	4,978	2,074	1,444	1,599	14,226
Cash dividends received.....			\$29,992	189,462	824,637	1,077,203	864,939	654,130	601,622	4,241,985
Total interest and cash dividends received.....			29,992	189,655	828,575	1,082,181	867,013	655,574	603,221	4,256,211
Proceeds of sale of stock dividends, rights, etc.....			331	8,231	65,066	56,912	58,731	21,167	16,952	227,390
Proceeds of sale of eliminated securities.....				25,248	105,498	99,573	161,166	50,827	44,847	487,159
Other receipts.....				19,564	2		437	5,785	242	26,030
Transfers from reserves.....					74,582	130,832	2,042	6,328		213,784
Equalization credits with respect to newly issued shares.....				55,118	434,748	97,537	22,338	38,813	9,542	658,146
Total gross receipts.....			30,323	297,816	1,509,945	1,493,448	1,175,329	838,746	729,155	6,074,762
<i>Disbursements</i>										
Trustee's fees.....			624	5,210	8,158	9,418	8,168	8,978	7,208	47,764
Taxes.....					716		4,234	1,744	283	6,977
Trustee's expenses.....						111	2	3	3	119
Legal expense.....				150		100	180	1,534	570	2,534
Auditing expense.....								2,010		2,010
Other expenses.....			56	2,199	9,260	12,620	12,157	7,545	9,130	52,967
Equalization debits with respect to shares surrendered for redemption.....					11,058	28,225	89,717	65,962	39,454	234,416
Total disbursements.....			680	7,559	29,192	50,474	114,458	87,776	56,648	346,787
Net receipts.....			29,643	290,257	1,480,753	1,442,974	1,060,871	750,970	672,507	5,727,975
<i>Disposition of net receipts</i>										
Distribution to shareholders.....			29,643	284,494	1,426,803	1,339,241	924,979	638,434	600,294	5,293,888
Transfers to reserves.....				4,289	26,660	24,118	20,904	8,185	16,777	100,933
Carry-over to next period.....				1,474	26,363	63,602	60,252	54,351	53,252	259,294
Other dispositions.....					927	16,013	54,736		2,184	73,860

^a Includes: Associated Standard Oilstocks Shares, Series A, and Combined Trust Shares (of Standard Oil Group), from 1929 on; Fundamental Trust Shares, Series A, Fundamental Trust Shares, Series B, Trust Shares of America, Equity Trust Shares of America, New York Bank Trust Shares, and Independence Trust Shares, from 1930 on; National Trust Shares, Representative Trust Shares, and Selected Cumulative Shares, from 1931 on; Foundation Trust Shares, Series A, and Trusteed New York Bank Shares, from 1932 on; Trusteed American Bank Shares, Series B, from 1933 on; Collateral Equities Trust Shares, from 1934 on.

APPENDIX G

Balance Sheets for Certain Fixed Trusts, Classified by Sponsorship Groups

Balance sheets for the fixed trusts sponsored by the six leading sponsors of such trusts for the years 1927 to 1935, inclusive, constitute this appendix. These sponsors are: Distributors Group, Incorporated, Maryland Sponsors, Inc., Calvin Bullock, Massachusetts Distributors, Inc., Transcontinent Shares Corporation, and Super-Corporations of America Depositors, Inc.

These figures were taken from the replies to the Commission's questionnaire for the trusts named.

Combined Annual Statement of Trust Assets and Liabilities for Fixed Trusts Sponsored by Distributors Group, Inc., as of Dec. 31, 1929-35 ^a

	1929	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>							
Stocks at market.....	\$28,840,058	\$78,565,091	\$51,298,310	\$46,483,016	\$57,715,554	\$47,306,463	\$56,227,800
Bonds at market.....				940,124	3,070,819	4,483,625	6,415,569
Other securities at market.....							
Total securities at market.....	28,840,058	78,565,091	51,298,310	47,423,140	60,786,373	51,790,088	62,643,369
Accrued interest.....				9,250	5,588	1,973	3,308
Accrued dividends.....							
Stock dividends receivable.....							
Stock rights receivable.....							
Cash in hands of trustee.....	4,117,211	19,704,748	8,164,907	3,020,344	1,695,920	1,481,552	1,910,875
Other assets.....			55,468	227	89	3,606	94
Total assets.....	32,957,269	98,269,839	59,518,685	50,452,961	62,487,970	53,277,219	64,557,646
<i>Trust principal and liabilities</i>							
Trust certificates outstanding (at market value of underlying securities).....							
Funds to be distributed to certificate holders on subsequent distribution dates.....	28,840,058	78,565,092	51,298,311	47,432,390	60,791,961	51,792,061	62,646,677
Matured coupons or distributions payable.....	1,891,707	10,297,031	4,874,164	2,720,653	1,522,203	1,326,125	1,749,509
Reserves.....	7,678	42,337	65,525	109,859	140,911	145,675	149,148
Other liabilities.....	2,205,600	9,330,000	3,129,627	189,492	32,141	6,897	12,136
	12,226	35,376	151,058	567	754	6,461	176
Total principal and liabilities.....	32,957,269	98,269,838	59,518,685	50,452,961	62,487,970	53,277,219	64,557,646

^a Includes: North American Trust Shares, 1953, from 1929 on, Cumulative Trust Shares from 1930 on, North American Trust Shares, 1955 and 1956 from 1931 on, North American Bond Trust from 1932 on, and North American Trust Shares, 1958 from 1933 on. Statements are as of Dec. 31, for all trusts except North American Bond Trust, the statements of which are as of Feb. 28 of the year following. Reserve funds above are mainly a paid-in reserve fund.

Combined Annual Statements of Trust Assets and Liabilities for Fixed Trusts Sponsored by Maryland Sponsors, Inc., as of Dec. 31, 1927-35 ^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>									
Stocks at market.....	\$2,406,956	\$9,618,201	\$16,906,262	\$70,202,304	\$43,196,628	\$31,411,525	\$25,655,898	\$17,102,921	\$18,762,688
Bonds at market.....									
Other securities at market.....									
Total securities at market.....	2,406,956	9,618,204	16,906,262	70,202,304	43,196,628	31,411,525	25,655,898	17,102,921	18,762,688
Accrued interest.....									
Accrued dividends.....									
Stock dividends receivable.....									
Stock rights receivable.....									
Cash in hands of trustee.....	234,221	861,557	2,170,946	12,112,274	5,435,287	1,238,368	1,076,422	509,672	454,020
Other assets.....									
Total assets.....	2,641,177	10,479,761	19,077,208	82,314,578	48,631,915	32,649,893	26,732,320	17,612,593	19,216,708
<i>Trust principal and liabilities</i>									
Trust certificates outstanding (at market value of underlying securities).....	2,406,956	9,618,204	16,906,261	70,202,305	43,196,628	31,411,525	25,655,898	17,102,921	18,762,687
Funds to be distributed to certificate holders on subsequent distribution dates.....	896	905	4,637	29,977	22,509	269			
Matured coupons or distributions payable.....	78,773	265,927	1,021,815	5,088,132	4,526,086	1,145,608	1,076,422	509,672	450,886
Reserves.....	154,552	594,725	1,144,495	6,994,167	886,692	92,491			3,135
Other liabilities.....									
Total principal and liabilities.....	2,641,177	10,479,761	19,077,208	82,314,578	48,631,915	32,649,893	26,732,320	17,612,593	19,216,708

^a Includes: Fixed Trust Shares from 1927 on, Basic Industry Shares from 1928 on, Fixed Trust Shares B and Corporate Trust Shares Original Series from 1929 on, Corporate Trust Shares, Series AA and Accumulative Series and 5-Year Fixed Trust Shares from 1931 on, and Corporate Trust Shares, Accumulative Series (Modified) and AA Series (Modified) from 1932 on. All statements are as of Dec. 31. Excludes Fixed Trust Oil Shares.

Combined Annual Statements of Trust Assets and Liabilities for Fixed Trusts Sponsored by Calvin Bullock, as of Dec. 31, 1927-35^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>									
Stocks at market.....	\$10, 358, 230	\$33, 604, 159	\$37, 393, 939	\$46, 025, 544	\$40, 980, 447	\$31, 219, 079	\$20, 213, 905	\$11, 086, 395	\$15, 773, 852
Bonds at market.....									
Other securities at market.....									
Total securities at market.....	10, 358, 230	33, 604, 159	37, 393, 939	46, 025, 544	40, 980, 447	31, 219, 079	20, 213, 905	11, 086, 395	15, 773, 852
Accrued interest.....									
Accrued dividends.....				70, 069	198, 029	151, 850	92, 811	69, 025	61, 040
Stock dividends receivable.....				44, 722	44, 170	36, 252	12, 182		
Stock rights receivable.....				11, 772					
Cash in hands of trustee.....	171, 615	761, 018	1, 443, 794	1, 477, 890	1, 372, 112	1, 245, 330	980, 449	638, 844	583, 480
Other assets.....				592	1, 306				
Total assets.....	10, 529, 845	39, 365, 177	38, 837, 733	47, 630, 589	42, 596, 064	32, 652, 511	21, 299, 347	11, 794, 264	16, 418, 372
<i>Trust principal and liabilities</i>									
Trust certificates outstanding (at market value of underlying securities).....	10, 358, 231	38, 604, 158	37, 393, 938	46, 133, 247	41, 217, 405	31, 406, 199	20, 316, 458	11, 155, 443	15, 834, 912
Funds to be distributed to certificate holders on subsequent distribution dates.....	48, 372	51, 330	66, 087	297, 643	365, 272	263, 584	130, 970	56, 565	58, 091
Matured coupons or distributions payable.....	119, 135	528, 482	759, 840	454, 138	235, 010	233, 041	143, 493	106, 411	102, 293
Reserves ^b	4, 107	181, 207	593, 064	738, 948	776, 224	726, 711	670, 480	453, 485	403, 248
Other liabilities.....			24, 804	6, 613	2, 153	22, 976	37, 946	22, 360	19, 828
Total principal and liabilities.....	10, 529, 845	39, 365, 177	38, 837, 733	47, 630, 589	42, 596, 064	32, 652, 511	21, 299, 347	11, 794, 264	16, 418, 372

^a Includes: U. S. Electric Light & Power Shares, Inc., Trust Certificates, Series A, and Nation-Wide Securities Co., Trust Certificates, Series A, from 1927 on; U. S. Electric Light & Power Shares, Inc., Trust Certificates, Series B, and Nation-Wide Securities Co., Trust Certificates, Series B, from 1930 on. Statements for U. S. Electric Light & Power Shares, Inc., Trust Certificates are as of Nov. 30 of each year.

^b Principally for "Undivided earnings."

Combined Annual Statements of Trust Assets and Liabilities for Fixed Trusts Sponsored by Massachusetts Distributors, Inc., Dec. 31, 1927-35 ^a

	1927	1928	1929	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>									
Stocks at market.....	\$5, 197, 155	\$14, 630, 882	\$32, 957, 609	\$29, 387, 663	\$20, 431, 879	\$16, 518, 000	\$19, 991, 582	\$15, 770, 529	\$20, 386, 405
Bonds at market.....									
Other securities at market.....									
Total securities at market.....	5, 197, 155	14, 630, 882	32, 957, 609	29, 387, 663	20, 431, 879	16, 518, 000	19, 991, 582	15, 770, 529	20, 386, 405
Accrued interest.....									
Accrued dividends.....									
Stock dividends receivable.....									
Stock rights receivable.....									
Cash in hands of trustee.....	238, 590	727, 886	777, 356	923, 884	971, 567	609, 199	528, 061	415, 519	429, 410
Other assets.....									
Total assets.....	5, 435, 745	15, 358, 768	33, 734, 965	30, 311, 547	21, 403, 446	17, 127, 199	20, 519, 643	16, 186, 048	20, 815, 815
<i>Trust principal and liabilities</i>									
Trust certificates outstanding (at market value of underlying securities).....	5, 197, 155	14, 630, 882	32, 957, 609	29, 387, 664	20, 431, 879	16, 518, 000	19, 991, 582	15, 770, 529	20, 386, 405
Funds to be distributed to certificate holders on subsequent distribution dates.....	238, 590	727, 886	777, 356	923, 883	947, 528	565, 171	369, 248	364, 193	390, 122
Matured coupons or distributions payable.....					24, 039	44, 028	43, 614	39, 839	32, 920
Reserves.....							115, 199	11, 487	6, 368
Other liabilities (liquidation account).....									
Total principal and liabilities.....	5, 435, 745	15, 358, 768	33, 734, 965	30, 311, 547	21, 403, 446	17, 127, 199	20, 519, 643	16, 186, 048	20, 815, 815

^a Includes: Diversified Trustee Shares, Original Series from 1927 on; Series B, from 1928 on; Series C, from 1929 on; and Series D, from 1931 on. Statements for the Original Series are as of June 15, Series B as of Sept. 15, Series C as of Dec. 15, and Series D as of Mar. 31 of the succeeding year. The statements for Series D for 1935 is based on partial data as of Feb. 29, 1936.

Combined Annual Statements of Trust Assets and Liabilities for Fixed Trusts Sponsored by Transcontinent Shares Corporation (Bank & Insurance Shares, Inc.), as of Dec. 31, 1929-35 ^a

	1929	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>							
Stocks at market.....	\$1,740,382	\$2,970,509	\$1,870,092	\$3,677,764	\$4,995,832	\$9,114,957	\$18,746,430
Bonds at market.....							
Other securities at market.....	107,640	33,987	5,560				
Total securities at market.....	1,848,022	3,004,476	1,875,652	3,677,764	4,995,832	9,114,957	18,746,430
Accrued interest.....							
Accrued dividends.....	1,471	22,168	26,574	34,422	51,480	79,712	131,085
Stock dividends receivable.....							
Stock rights receivable.....							
Cash in hands of trustee.....	115,397	76,033	84,863	77,586	97,793	266,421	234,600
Other assets.....							
Total assets.....	1,964,890	3,102,677	1,987,089	3,789,772	5,145,105	9,461,090	19,112,115
<i>Trust principal and liabilities</i>							
Trust certificates outstanding (at market value of underlying securities).....	1,740,382	2,779,970	1,880,757	3,677,981	4,996,069	9,214,537	18,753,949
Funds to be distributed to certificate holders on subsequent distribution dates.....	224,508	322,707	106,332	111,791	149,036	246,553	358,166
Matured coupons or distributions payable.....							
Reserves.....							
Other liabilities.....							
Total principal and liabilities.....	1,964,890	3,102,677	1,987,089	3,789,772	5,145,105	9,461,090	19,112,115

^a Includes: Deposited Bank Shares, Series B-1 and Series N. Y. from 1929 on, and Deposited Bank Shares, N. Y., Series A, and Deposited Insurance Shares, Series A, from 1930 on. Excludes Deposited Insurance Shares, Series B.

Combined Annual Statement of Trust Assets and Liabilities for Fixed Trusts Sponsored by Super-Corporations of America Depositors, Inc., as of Dec. 31, 1930-35^a

	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>						
Stocks at market.....	\$15,885,112	\$22,875,527	\$14,318,301	\$6,661,038	\$3,842,597	\$3,550,181
Bonds at market.....						
Other securities at market.....						
Total securities at market...	15,885,112	22,875,527	14,318,301	6,661,038	3,842,597	3,550,181
Accrued interest.....						
Accrued dividends.....						
Stock dividends receivable.....						
Stock rights receivable.....						
Cash in hands of trustee.....	1,520,685	2,375,840	628,869	208,130	113,202	104,422
Other assets.....						
Total assets.....	17,405,797	25,251,367	14,947,170	6,869,168	3,955,799	3,654,603
<i>Trust principal and liabilities</i>						
Trust certificates outstanding (at market value of underlying securities).....	15,885,112	22,875,627	14,318,301	6,661,036	3,842,596	3,550,181
Funds to be distributed to certificate holders on subsequent distribution dates.....	804,935	1,352,741	570,771	156,930	81,434	59,948
Matured coupons or distributions payable.....		24,370	16,718	39,113	31,769	44,474
Reserves.....	715,750	998,629	41,380	12,089		
Other liabilities.....						
Total principal and liabilities.....	17,405,797	25,251,367	14,947,170	6,869,168	3,955,799	3,654,603

^a Includes: Super-Corporations of America Trust Shares, Series A and B from 1930 on; Series C and D from 1931 on; and Series AA and BB from 1932 on. The statements for Series A and B are as of Oct. 31.

Combined Annual Statements of Trust Assets and Liabilities for Sixteen Fixed Trusts of Miscellaneous Sponsorship as of Dec. 31, 1929-35^a

	1929	1930	1931	1932	1933	1934	1935
<i>Trust assets</i>							
Stocks at market.....	\$1, 588, 571	\$5, 449, 892	\$16, 961, 470	\$16, 716, 518	\$18, 214, 054	\$14, 739, 027	\$17, 081, 420
Bonds at market.....							
Other securities at market.....							
Total securities at market.....	1, 588, 571	5, 449, 892	16, 961, 470	16, 716, 518	18, 214, 054	14, 739, 027	17, 081, 420
Accrued interest.....							
Accrued dividends.....					6, 494	33, 693	18, 363
Stock dividends receivable.....						3, 327	3, 409
Stock rights receivable.....							
Cash in hands of trustee.....	65, 362	174, 194	792, 548	689, 288	451, 275	365, 307	369, 197
Other assets.....						139	1, 050
Total assets.....	1, 653, 933	5, 624, 086	17, 754, 018	17, 405, 806	18, 671, 823	15, 141, 493	17, 473, 439
<i>Trust principal and liabilities</i>							
Trust certificates outstanding (at market value of underlying securities).....	1, 588, 571	5, 449, 892	16, 961, 470	16, 716, 518	18, 226, 094	14, 770, 023	17, 067, 145
Funds to be distributed to certificate holders on subsequent distribution dates.....		15, 546	172, 007	300, 106	71, 195	121, 315	133, 879
Matured coupons or distributions payable.....	65, 181	126, 091	483, 265	356, 274	299, 525	189, 004	151, 737
Reserves.....		29, 400	129, 699	17, 361	33, 019	45, 322	90, 728
Other liabilities.....	181	3, 157	7, 577	15, 547	41, 990	15, 829	29, 950
Total principal and liabilities.....	1, 653, 933	5, 624, 086	17, 754, 018	17, 405, 806	18, 671, 823	15, 141, 493	17, 473, 439

^a Includes: Associated Standard Oilstocks Shares, Combined Trust Shares, (of Standard Oil Group,) from 1929 on; Fundamental Trust Shares, Series A and B, Trust Shares of America, Equity Trust Shares in America, New York Bank Trust Shares (as of Jan. 31 of the year following), Independence Trust Shares (as of Aug. 31), from 1930 on; National Trust Shares, Representative Trust Shares (as of Jan. 31 of the year following), Selected Cumulative Shares, from 1931 on; Foundation Trust Shares, Series A, Trusteed New York Bank Shares, from 1932 on; Trusteed Industry Shares, Trusteed American Bank Shares, Series B, from 1933 on; Collateral Equities Trust Shares from 1934 on.

APPENDIX H

LEGAL STATUS OF FIXED TRUSTS

This appendix indicates briefly some of the legal questions as to fixed trusts arising under various tax laws, and supplements the discussion in Chapter VI of this report.

1. DOING BUSINESS BY A TRUST UNDER FEDERAL TAX LAWS

The legal status of fixed trusts presents a question under the Federal Income Tax laws. The basis of taxation of a trust under the Internal Revenue Code will depend on whether the trust is classed as a strict trust or as an association. Regulations 101 relating to the Income Tax under the Revenue Act of 1938, Articles 901-2, provide:

The term "association" is not used in the Act in any narrow or technical sense. It includes any organization, created for the transaction of designated affairs, or the attainment of some object, which, like a corporation, continues notwithstanding that its members or participants change, and the affairs of which, like corporate affairs, are conducted by a single individual, a committee, a board, or some other group, acting in a representative capacity. It is immaterial whether such organization is created by an agreement, a declaration of trust, a statute, or otherwise. It includes a voluntary association, a joint-stock association or company, a "business" trust, a "Massachusetts" trust, a "common law" trust, an "investment" trust (whether of the fixed or the management type), an inter-insurance exchange operating through an attorney in fact, a partnership association, and any other type of organization (by whatever name known) which is not, within the meaning of the Act, a trust or an estate, or a partnership. If the conduct of the affairs of a corporation continues after the expiration of its charter, or the termination of its existence, it becomes an association.

Article 901-3 provides in part:

If a trust is an undertaking or arrangement conducted for income or profit, the capital or property of the trust being supplied by the beneficiaries, and if the trustees or other designated persons are, in effect, the managers of the undertaking or arrangement, whether the beneficiaries do or do not appoint or control them, the beneficiaries are to be treated as voluntarily joining or cooperating with each other in the trust, just as do members of an association, and the undertaking or arrangement is deemed to be an association classified by the Act as a corporation. However, the fact that the capital or property of the trust is not supplied by the beneficiaries is not sufficient reason in itself for classifying the arrangement as an ordinary trust rather than as an association.¹

¹ The Treasury Department published two rulings relating to fixed investment trusts. One ruling, I. T. 2572, C. B. June 1931, p. 200, held that where the elements of business, of control by beneficiaries and of quasi corporate organization of business in general were all present, the trust was taxable as an association. In the second ruling, I. T. 2583, C. B. Dec. 1931, p. 213, a fixed investment trust was held to be a strict trust and not an association.

The U. S. Board of Tax Appeals is presently considering the question in connection with Corporate Trust Shares, Accumulative Series, Accumulative Series (Modified), Series AA, and Series AA (Modified). *The Chase National Bank of the City of New York, Trustee, vs. Commissioner of Internal Revenue*, Docket Nos. 93854-5-6-7.

Even if classed as an association, a fixed trust may, nevertheless, come within the provisions of Sections 361 and 362 of the Internal Revenue Code, which defines "mutual investment company," and as a result be entitled to certain tax exemptions.

The question as to whether a fixed trust was subject to Federal income taxation as an association or as a trust was considered in the case of *Continental Bank & Trust Co. of New York v. United States*.² In this case the Continental Bank & Trust Co. of New York, as successor trustee to Empire Trust Company under a trust indenture dated February 27, 1928, for United New York Bank Trust Shares (formerly known as Bank Stock Trust Shares, Series C-3, and as United New York Bank Trust Shares, Series C-3), brought suit against the United States for a refund of taxes for the fiscal year ending May 31, 1929.

The Government contended that the trusts should be taxed under Section 13 of the Revenue Act of 1928 which fixed the rate of income tax for corporations. The term "corporation" was defined in Section 701 (a) (2) of that Act:

The term "corporation" includes associations, joint-stock companies, and insurance companies.

The plaintiff trustee contended that the tax should be levied under Section 161 of the Act which fixes the rate of tax "on the income of estates or of any kind of property held in trust."

United New York Bank Trust Shares was a semifixed trust in which the unit consisted of one share of the stock of each of twenty designated banks and trust companies. The compensation of the depositor was fixed at one-tenth of 1% of the value of the principal of the units and reserve fund.

Provision was made for the elimination of underlying stocks of corporations in the discretion of the depositor if any company should liquidate voluntarily or otherwise or a receiver should be appointed for a substantial portion of its property and such receivership should continue for sixty days without any court proceedings instituted for the discharge of such receiver, or if the underlying company should fail for one year to pay any dividend on such stock, or if at any time the depositor should reach the conclusion that dividends would cease to be paid in cash, either temporarily or permanently, or that the then market value of such stock would become impaired. The proceeds of such sales were to be reinvested in stocks with qualifications set out in the trust agreement. The excess of such proceeds of elimination over the average costs of reinvestment was to be paid into the reserve fund and provision was made for investment of cash in the reserve fund, with discretion in the trustee to direct the sale of any or all the property in the reserve fund. Stock dividends and any securities or other distributions received by way of liquidation, dissolution, or merger of the banks whose stocks composed the units were to be sold to the reserve fund, otherwise to the depositor, and if not purchased by the latter, such securities were to be sold on the open market at the best price obtainable. The proceeds were to be reinvested in the same manner as that portion of the proceeds from

² 19 F. Supp. 15 (D. C. S. D. N. Y. 1937).

the sale of stocks in the units not in excess of the cost of acquisition.

Distributions of income and profits were to be made semiannually on July 1 and January 1 of each year, under the terms of the trust agreement, and such funds were to be transferred from the reserve fund to enable the trustee to distribute to the holders of trust shares total dividends at the rate of 5% per annum on the asked price, as fixed by the depositor, for trust shares at the close of business on the preceding June 1 or December 1.

The Court held, on the authority of *Morrissey v. Commissioner*,³ that the trust in question qualified as an association; had the distinctive features of being created to enable the participants to carry on a business and divide the gains; and was not organized to hold and conserve particular property as in the traditional type of trust.

The Court stated:⁴

In my opinion the trust in question qualifies as an association under this definitive description. It has "the distinctive feature of being created to enable the participants to carry on a business and divide the gains" so as to be "sufficiently analogous to corporate organization to justify the conclusion that Congress intended that the income of the enterprise should be taxed in the same manner as that of corporations." *Morrissey v. Commissioner, supra*, 296 U. S. 344, at page 360; 56 S. Ct. 289, 296; 80 L. Ed. 263. The principal argument upon which the plaintiff bases its contention that it is not a business trust, but rather a strict trust, is that the indenture contemplates the creation of a "supervised unit series" type of investment trust, to use the plaintiff's term, as distinguished from the so-called "fund" type of investment trust. The plaintiff describes another type of investment trust known as the "fixed" type in which the trustee's power of investment is limited to a more restricted number of securities. The plaintiff claims that under this "supervised unit series" type of investment trust the trustee's power of investment is limited somewhat in the same manner as is the ordinary fiduciary and that accordingly the trustee is not permitted to speculate. But the investment of trust funds may constitute the doing of business. *Brooklyn Trust Co. v. Commissioner* (C. C. A.) 80 F. (2d) 865; *Investment Trust of Mutual Investment Company v. Commissioner*, 27 B. T. A. 1322, affirmed in (C. C. A.), 71 F. (2d) 1009. This investment trust was not organized to merely "hold and conserve particular property, with incidental powers, as in the traditional type of trusts, but to provide a medium for the conduct of a business and sharing its gains." *Morrissey v. Commissioner, supra*. The twenty-nine sales of securities, which the income-tax return sets forth as resulting in the profit constituting almost 85 percent of the gross income of the trust for the fiscal year in question, sufficiently evidenced a degree of activity in management that distinguishes the enterprise as a business trust. *Ittleson v. Anderson* (C. C. A.), 67 F. (2d) 323; *Brooklyn Trust Co. v. Commissioner, supra*.

In *Hamilton Depositors Corporation v. Nicholas*,⁵ Hamilton Trust Shares was held to be an association within the meaning of the capital stock tax provisions of the Revenue Act of 1936 and not a trust, and therefore the trust was held liable for capital stock taxes. While Hamilton Trust Shares differs in certain respects from the fixed trust, its operations, aside from its selling plan, are analagous. This

³ 296 U. S. 344, 56 S. Ct. 289; 80 L. Ed. 263 (1935).

⁴ *Id.*, at p. 18.

⁵ *Hamilton Depositors Corporation v. Nicholas*, U. S. Dist. Ct., Colorado, No. 11173 (Aug. 30, 1939.)

trust was set up when Hamilton Depositor Corporation, depositor, deposited with International Trust Company of Denver, Colorado, the trustee, units of underlying property consisting of the common stocks of several corporations. These units are divided into shares which are placed in the accounts of various installment purchasers of the certificates as installment payments are made. Under the terms of the trust agreement, no substitutions are permitted in the underlying stocks except upon a merger or consolidation of their issues or reclassification of the securities thereof, in which case the new company or security takes the place of the old one. Underlying stocks may be eliminated in the discretion of the depositor if they appear unworthy of being continued in the unit. The proceeds of such elimination are to be invested in the stocks remaining in the unit. The court, in holding that the trust was an association, stated, in part:⁶

Regulations 1001-3, Income Tax, issued under the Revenue Act of [1936], in discussing trusts, states that if a trust is an undertaking or an arrangement conducted for income or profit, the capital of the same being supplied by the beneficiaries, and if the trustees or other designated persons are, in effect, the managers of the undertaking, whether the beneficiaries do or do not appoint them, the beneficiaries are to be treated as voluntarily joining or cooperating with each other in the trust, just as do members of an association, and the undertaking or arrangement is deemed to be an association classified by the Act as a corporation. I think this situation comes within that language.

2. ASPECTS OF TAXATION

For a time investors purchased fixed-trust certificates which were in bearer form in the belief that they thereby escaped local property taxes in the states which imposed taxes on the ownership of securities. In Ohio, for example, the general belief prevailed that trust property was not taxable to the beneficiary in Ohio if the trustee was located in another state by reason of the fact that the property tax in Ohio was assessed against the owner of the legal title. Under the doctrine of *mobilia personam sequuntur* the property was for tax purposes located outside the state. However, when the question was submitted to the Attorney General of Ohio, he held that the fixed trust was a security which would be taxable in Ohio if the beneficiary resided in that state.⁷

As to income taxes under the Federal Income Tax Law prior to the Revenue Act of 1936, cash dividends received by an individual were not subject to the normal Federal Income Tax. The sales literature usually stated that distributions were exempt from the normal Federal Income Tax insofar as they represented cash dividends from deposited stocks which were so exempt.⁸ The depositor in many cases furnished a semiannual statement of the source of distributions, indicating the part which represented cash dividends.

Fixed-trust shares were also sold with the representation that multiple inheritance taxes would be avoided, that if a decedent had owned the certificate for the shares of the underlying stocks directly, each state where one of the companies was originally incorporated could impose

⁶ Ibid.

⁷ Opinions of the Attorney General of Ohio, Vol. 1, p. 439 (1939), No. 1652.

⁸ Offering circular for North American Trust Shares, 1953. (Reply to the Commission's questionnaire for this trust, Exhibit F-1.)

an inheritance tax, the collection of which could be readily enforced when an heir or legatee sought to have the stock transferred into his or her name. In addition, the state where the decedent had resided could impose an inheritance tax. The selling argument in some cases was worded as follows:⁹

North American Trust Shares are securities of the type which are within the taxing power of, and are usually taxed by, the State of domicile of the decedent * * *.

North American Trust Shares are in bearer form, intended to be transferable by delivery and, in the opinion of counsel, represent merely equitable interest and not legal ownership in any specific shares of stock. Counsel report that the taxing authorities in some States have stated that they will impose an inheritance tax on the proportionate part of the value of such shares represented by the stock of corporations organized in said States. Counsel report that they have made what they believe to be an exhaustive examination of the legal authorities of this country and that they do not find any judicial authority under which North American Trust Shares should be held subject to inheritance tax other than as stated above, but, on the contrary, have found several authorities which they believe indicate that such shares should not be held so taxable.

⁹ Ibid.

APPENDIX I

Schedule of Fees of Trustees of Certain Fixed Trusts

The fees paid to the trustees for the group of fixed trusts sponsored by Distributors Group, Incorporated, are set forth here as being illustrative of the amounts of fees paid trustees.

These fees are grouped under the following headings:

1. Origination of units.
2. Holding and servicing underlying securities.
3. Authentication of certificates.
4. Conversion of trust shares into cash or underlying securities.
5. Payment of coupons.
6. Miscellaneous.

This material was taken from the replies to the Commission's questionnaire for the trusts sponsored by Distributors Group, Incorporated, and from material supplementary thereto supplied the Commission for these trusts.

NORTH AMERICAN TRUST SHARES, 1953 ¹

A. The fees of the trustee, Guaranty Trust Company of New York, for North American Trust Shares, 1953, were as follows:

1. *Fees for Origination of Units.*—Originally a flat rate of \$10 per unit, later changed to \$25 per unit.

Year :	<i>Fees</i>
1929-----	\$1, 070. 00
1930-----	2, 575. 00
1931-----	5, 525. 00
1932-----	1, 225. 00

2. *Fees for Holding and Servicing Underlying Securities.*—Originally a flat rate of \$10 per unit, reduced in 1931, and changed in 1932 to one-third cent per share of underlying stock.

Year :	<i>Fees</i>
1929-----	\$7, 770. 00
1930-----	45, 070. 00
1931 :	
First half-----	35, 392. 50
Second half-----	39, 612. 00
1932 :	
First half-----	12, 616. 45
Second half-----	5, 028. 07
1933 :	
First half-----	4, 797. 51
Second half-----	4, 490. 68
1934 : First half-----	4, 173. 70

¹ Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 986.

3. *Fees for Authentication of Certificates.*—The charge was a flat rate of 25¢ per certificate for certificates of 50 shares or less, and 50¢ per certificate for those of 50 shares or more.

Year:	<i>Fees</i>
1929-----	\$13, 148. 40
1930-----	55, 317. 75
1931-----	51, 605. 00
1932-----	2, 496. 25
1933-----	90. 00
1934-----	16. 50

4. *Fees for Conversion of Trust Shares Into Cash or Underlying Securities.*—In 1932 a charge of \$900 was made for conversions of 92,500 trust shares. Thereafter a flat charge of one-half cent per trust share was fixed.

Year:	<i>Trust shares</i>	<i>Fees</i>
1932-----	18, 396, 255	\$91, 981. 28
1933-----	304, 310	1, 521. 55
1934-----	431, 605	2, 158. 02

5. *Fees for Payment of Coupons.*—Originally the charge was 1% of 40¢ per share. Later the charge was reduced.

Year:	<i>Fees</i>
1929:	
First half-----	\$6, 006. 34
Second half-----	14, 704. 00
1930:	
First half-----	35, 400. 00
Second half-----	62, 200. 00
1931:	
First half-----	72, 016. 00
Second half-----	(²)
1932:	
First half-----	12, 125. 00
Second half-----	9, 708. 33
1933:	
First half-----	9, 341. 67
Second half-----	8, 741. 67
1934:	
First half-----	7, 943. 33
Second half-----	-----

² Fees for paying coupons included in holding and servicing charge.

Additional charges were made for out-of-town and foreign service as follows:

Year:	<i>Fees</i>
1931-----	\$1, 380. 23
1932-----	4, 894. 51
1933-----	35. 56
1934-----	44. 03

6. *Miscellaneous Fees.*³—In 1929 an examination fee of \$500 was paid.

In 1933, for special information, a fee of \$425 was charged.

In 1934, for a like service, a fee of \$320 was charged.

CUMULATIVE TRUST SHARES ⁴

A. By an agreement dated September 19, 1930, between Cumulative Shares Corporation and Bank of America, N. A., its trustee, the following fees were provided for:

1. *Fees for Origination of Units.*—\$25 per unit.

2. *Fees for Holding and Servicing Underlying Securities.*— $\frac{1}{192}$ of 1% per month of value of deposited property not to exceed \$550 per annum.

3. *Fees for Authentication of Certificates.*—30¢ per certificate for 100 shares and under. 50¢ per certificate for 100 to 1,000 shares. \$1.00 per certificate for over 1,000 shares.

4. *Fees for Conversion of Trust Shares into Cash or Underlying Securities.*—\$1.00 for each certificate surrendered and actual expenses of the trustee.

5. *Fees for Payment of Coupons.*—One-fourth of 1% included in the servicing charge.

6. *Miscellaneous Fees.*—25¢ per certificate for executing temporary certificates. 35¢ per certificate for exchange of temporary certificates. 30¢ to \$1.00 per certificate for exchanging definitive for temporary certificates. \$500 for acceptance fee. \$1.00 per certificate for exchanging denominations (paid by certificate holder). Depositor added 10¢ per certificate to the foregoing.

Total fees paid for the years 1930 to 1935, inclusive, were \$31,676.⁵

B. The foregoing fees were secured by a deposit of an amount equal to 1% of the asked price less 5% of all shares issued within 10 days of issuance.

This deposit, with deposits for North American Trust Shares 1955, 1956, and 1958, referred to below, amounted to:

Year end:	Amount
1931-----	\$333, 160. 68
1932-----	567, 674. 55
1933-----	587, 294. 82
1934-----	Not given.
1935 (Cumulative Trust Shares)-----	6, 727. 00

NORTH AMERICAN TRUST SHARES, 1955 AND 1956 ⁶

A. By an agreement dated October 17, 1931, the following fees were provided:

1. *Fees for Origination of Units.*—\$25 per unit.

2. *Fees for Holding and Servicing Underlying Securities.*— $\frac{1}{192}$ of 1% per month of market value of underlying securities not to exceed

³ Public Examination, Distributors Group, Incorporated, Commission's Exhibit No. 987.

⁴ Id., Commission's Exhibit No. 981, Schedule A.

⁵ Id., Commission's Exhibit No. 982.

⁶ Id., Commission's Exhibit No. 983.

\$550 per unit annually on North American Trust Shares 1955, nor to exceed \$22 per unit for 1956, and not to be less than \$6,000 annually on both trusts.

3. *Fees for Authentication of Certificates.*—30¢ per certificate for 100 shares and under. 50¢ per certificate for 100 to 1,000 shares. \$1.00 per certificate for over 1,000 shares.

4. *Fees for Conversion of Trust Shares into Cash or Underlying Securities.*—(Not given.)

5. *Fees for payment of Coupons.*—(Not given.)

6. *Miscellaneous Fees.*⁷—Acceptance fee of \$1,500.

Execution and delivery of temporary certificates 25¢ per certificate.

Exchange of temporary certificates for other denominations, 35¢ per certificate.

Exchange of definitive certificates for other denominations, same fee as for execution of definitive certificates plus 10¢ per certificate.

Cremation expenses.

The total fees for the years 1931 to 1935, inclusive, were \$117,-329.69⁸ as follows:

Fees:	Amount
Initial.....	\$6,375.00
Continuing.....	48,989.15
Issuance.....	52,264.33
Copaying agents.....	4,621.94
Postage and insurance.....	4,344.24
Legal fees.....	155.50
Cremation expenses.....	389.53

B. These fees and the revolving fund were secured under the above agreement dated October 17, 1931, by the deposit of an amount equal to 1% of the cost of underlying securities at the time of the deposit of the units. The trustee was to purchase trust shares with such sums at current prices, less commissions. All income thereon was to be credited to a special income account to purchase additional shares for the same purposes. Interest therefor was to be paid by the trustee at customary rates.

NORTH AMERICAN TRUST SHARES, 1958

A. The trustee's fees are provided for by an agreement dated as of July 1, 1933.⁹

1. *Fees for Origination of Units.*—A flat rate of \$25 per transaction was agreed upon for each deposit of a unit.

2. *Fees for Holding and Servicing Underlying Securities.*—A fee of $\frac{1}{144}$ of 1% of the market value of the trust corpus each month was agreed upon with a guarantee that the minimum would be not less than \$3,000¹⁰ per annum.

3. *Fees for Authentication of Certificates.*—A flat rate of 25¢ was charged for the execution, issuance, and delivery of temporary certificates.

⁷ Id., Commission's Exhibit No. 983.

⁸ Id., Commission's Exhibit No. 982.

⁹ Id., Commission's Exhibit No. 978.

¹⁰ Reply to the Commission's questionnaire for North American Trust Shares, 1958, Exhibit A-1.

For exchange of temporary to definitive certificates, \$1.00 per certificate.

4. *Fees for Payment of Coupons.*—(Not given.)

5. *Miscellaneous Fees.*—For exchange from one denomination to another, 90¢ per certificate. For transferring certificates to an assignee, \$1.25 per certificate. For examination fee, \$500.

B. The agreement further provided that as security for the above fees there was to be deposited at the creation of each unit a sum in cash equal to $1\frac{1}{4}\%$ ¹¹ of the cost price of the securities deposited.

SUPER-CORPORATIONS OF AMERICA TRUST SHARES, SERIES C AND D

A. One more example is given showing the detailed charges of trustees in the case of Super-Corporations of America, Series C and D, issued in 1931. The charges of the trustee were as follows:

1. A deposit fee of one-tenth of 1% of the aggregate asked price of the trust shares in a unit.

2. A general administration fee of \$1,000 per annum if there were 400 trust units or less outstanding for both series and \$1.00 per annum for each additional trust unit or fraction thereof in excess of 400 trust units outstanding in any one year.

3. An authentication fee of \$1.00 for each certificate.

4. A coupon paying charge of one-half of 1% of semi-annual distributions.

5. A transfer charge of \$10 per trust unit for transferring shares of stock into the name of the trustee or its nominee.

6. A registration charge as to principal of certificates of \$1.00 per certificate for the first 150 certificates registered in each year and 50 cents for each certificate in excess of 150 certificates registered in each year.

7. A redemption charge of \$10 for each 2,000 trust shares surrendered in exchange for property or on final termination of the trust.

Both the administration fee and the redemption charges were provided for in advance in the form of a cash payment which was the then value on a 4% basis of the charge for the term of 18 years.

¹¹ Id., Exhibits G-1 and A-1.

Fees and compensation of the trustee or custodian (to Dec. 31, 1935), paid by Distributors Group, Inc., depositor

Name of trust and trustee	1929	1930	1931	1932	1933	1934	1935	Totals (by trusts)
North American Trust Shares, 1933: Guaranty Trust Co. of New York.....	\$28,494.74	\$122,186.75	\$258,998.73	\$165,855.89	\$30,947.69	\$77,866.99	-----	\$684,350.79
North American Trust Shares, 1935: Bank of America N. A., City Bank Farmers Trust Co. (successor).....	-----	-----	7,441.98	69,219.92	15,297.08	13,039.92	\$12,330.79	117,329.69
North American Trust Shares, 1936: Bank of America N. A., City Bank Farmers Trust Co. (successor).....	-----	-----	8,235.20	77,915.69	16,010.55	13,450.00	12,855.14	128,466.58
North American Trust Shares, 1938: City Bank Farmers Trust Co.....	-----	-----	-----	-----	1,554.92	1,546.23	3,049.64	6,150.79
Cumulative Trust Shares: Bank of America, N. A., City Bank Farmers Trust Co. (successor).....	-----	2,059.85	11,652.30	3,576.04	3,929.42	5,220.86	5,237.92	31,676.39
North American Bond Trust: City Bank Farmers Trust Co.....	-----	-----	-----	^a 10,212.56	7,790.23	10,843.60	21,250.26	50,096.65
Total.....	28,494.74	124,246.60	286,328.21	326,780.10	75,529.89	121,967.60	54,723.75	1,018,070.89

^a Includes the sum of \$10,000 paid to the trustee for the execution of the trust agreement, including the fees of its counsel in connection with the preparation of the agreement.

APPENDIX J

Certain State Laws Regulating Fixed Investment Trusts

In two states, Illinois and Wisconsin, statutes have been passed specifically regulating fixed and semifixed investment trusts. In other states, administrative agencies have adopted regulations, pursuant to statutes, regulating fixed and semifixed investment trusts.

The statutes of Wisconsin and Illinois and the regulations of Alabama and California, as of December 31, 1938, are set forth herein in full.

Laws of Wisconsin Regulating Fixed Trusts

In Wisconsin a special statute was passed regulating fixed trusts when the Securities Law was amended in 1933. Chapter 158, Laws of 1933 (Section 189.07 (4) of the Wisconsin statutes) provides:

(4) No certificates representing proportionate shares in a fund of securities shall be registered unless it shall be established that such shares will not be sold unless the securities have been deposited with a trustee, that neither the certificates nor any coupons in any way refer to or promise payment of a fixed amount per fiscal period, that no reserve fund otherwise designated shall be created which may have the effect of stabilizing distributions, that all trustee's fees (other than fees for transfer, exchange, registration, conversion, liquidation, or similar extraordinary fees) and management charges for the entire life of the trust will be paid immediately upon the sale of such shares, that in any case where any of the deposited securities are not listed on a stock exchange the applicant shall furnish proof that a ready market for such securities actually exists, that bid and asked prices are actually maintained, and that the method for determining the price of such securities on the basis of the bid and asked prices as herein provided is reasonable with reference to the securities to be deposited in trust, and unless the trust indenture or trust agreement authorizing the issuance of such certificates, or other irrevocable written instrument, shall in substance provide that:

(a) Such deposited securities shall have been fully paid for prior to the deposit thereof with said trustee.

(b) Such securities are to remain on deposit unless there is deposited with said trustee in lieu thereof the market value of such securities in money or other securities at their market value on the date of a substitution.

(c) Income from securities and from money on deposit with the trustee, together with all other income from the trust fund, shall belong to the holders of said certificates; provided, however, that the rate of interest payable on all money on deposit shall be no less than the current rate on daily balances established by the clearing-house association of which the trustee is a member, or if the trustee is not a member of a clearing-house association, then at a rate not less than the current rate on daily balances established by the New York Clearing House Association.

(d) No capital distribution shall be made during the life of the trust payable out of the proceeds from the sale of any securities received by the trustee as split-ups of stock theretofore deposited or as stock dividends; provided, however, that provisions authorizing the trustee to distribute the proceeds from (1) the sale of stock subscription rights accruing to the trustee or its nominee as the record holder of title to the deposited securities, (2) the sale of fractional shares per unit received as the result of a stock dividend or stock split-up, (3) the sale of shares received as stock dividends but not in excess of ten percent per annum of the stock with respect to which such dividend or dividends shall be paid, (4) the sale of securities received as a distribution upon a deposited security in the trust and which, if a security of the same company, has rights and preferences different (other than different voting rights) than the security upon which it is distributed, or to distribute the entire trust fund or any unit thereof at any time, shall not be deemed inconsistent with the provisions of this section. The term unit as used herein shall mean a number of full shares of each of the deposited stocks equal to the result obtained by dividing the number of shares of each stock deposit in a stock unit, as defined in the trust indenture, by the greatest common divisor applicable thereto.

(e) The trustee named in said trust agreement or trust indenture shall be a bank or trust company with a capital and surplus of at least one million dollars, and no resignation by, or discharge of, said trustee shall become effective until some other bank or trust company with a capital and surplus of at least one million dollars shall have accepted the trust, or until a trustee shall have been appointed by a court of competent jurisdiction and the trustee so named shall have accepted the trust, unless the agreement or indenture provides that the trust shall terminate unless a successor trustee shall have been appointed and shall have accepted the trust within a reasonable time.

(f) Neither the trustee nor the depositor shall have any lien upon the trust fund nor any claim against holders of certificates for management charges or trustee's fees (other than fees for transfer, exchange, registration, conversion, liquidation, or similar extraordinary fees).

(4m) However, such shares shall not be sold in this state at a price to exceed the sum of:

(a) The latest market price of the deposited securities available at the time of such sale, which, in the case of listed securities shall be round lot prices exclusive of commissions, and shall be based on actual stock exchange transactions, and which, in cases where the securities are not so listed, shall be the average of the bid and asked prices of the next preceding day for which bid and asked prices are available. To such market price may be added a sum not exceeding six and one-half per cent thereof, plus one-fourth of one per cent for each full year of the remaining life of the trust, but in no case shall such increase above the market price exceed ten per cent thereof.

(b) A sum in cash equal to the aggregate of the proportionate part applicable to the number of shares issued against stock units of any currently distributable funds held by the trustee.

(c) A sum in cash equal to all cash dividends payable on or after the date of the deposit to holders of such stock of record on a date prior to the date of such deposit, and the latest available market price figured at round lot prices of all stock dividends, shares of stock, subscription rights, or other property distributable on and after the date of such deposit with respect to shares of stock so deposited where such stock dividends, shares of stock, subscription rights, and other property belong to previous holders of such stock of record of a date prior to the date of such deposit; provided, however, that such amount

shall be added to the selling price only to the extent that such dividends, shares of stock, subscription rights, and other property are payable or distributable with respect to similar shares of stock held by the trustee at the time of such deposit.

(4n) The commission shall, in registering such securities, fix the maximum price at which such securities may be sold and in fixing such price it shall consider the earnings of the issuers of the deposited securities and other relevant matters. Notwithstanding compliance with other provisions of this section, the commission may deny the application if it is not established by the applicant that the available supply of each of the securities to be deposited is sufficient so that the market price of such securities will not be materially influenced by purchase for any trust. Every registration issued under this subsection shall terminate one year from the date of issuance thereof, but upon written request and submission of evidence equivalent to the evidence required in the original application the commission may, from time to time, extend such registration, but no such extension shall exceed one year, and upon each request for an extension the commission shall charge and the applicant shall pay the expense reasonably attributable to the examination of such application.

Laws of Illinois Regulating Fixed Trusts

The Illinois Securities Law (Laws of 1919 as amended by Laws of 1935) provides as follows:

SEC. 7a. 1. Securities of organizations known as "Investment Trusts," for the purposes of this Act, shall mean and include shares representing equitable ownership of or participation in, or the shares of capital stock of a corporation the assets of which consist of, property held in trust for the benefit of the holders of such shares, or property held as custodian for a corporation and its stockholders, by a bank or trust company having a capital and surplus of not less than \$1,000,000, which property consists principally of securities and/or cash. For the purposes of this section 7a investment trust shares shall consist of the following:

(a) Shares of fixed investment trusts shall mean and include shares of an investment trust in which no change (other than elimination under provisions of the trust instrument requiring the net proceeds of such elimination to be distributed) can be made in the identity of the securities deposited in such trust except upon the happening of one or more events specified in the trust instrument and which are beyond the control of any party thereto.

(b) Shares of a semifixed investment trust shall mean and include shares of a trust in which an investment of the funds of such trust is permitted in securities from an approved, reserve or eligible list that has been selected and approved by the trust and its shareholders or stockholders, both at the time of purchase of such shares and subsequent thereto, and in which trust discretionary changes as to securities held in such trust involving substitution as well as elimination, are permitted.

2. Shares of fixed trusts may be sold in this State upon registration by description as set forth in this Section 7a, provided that the basic securities in each trust shall consist of Class "A" securities as defined in paragraph (1), (2), (3), and/or (4) of Section 4 of this Act (excluding, however, any investment trust shares) and/or cash.

Such registration shall be effected by the filing by any registered dealer or broker, in the office of the Secretary of State, on forms prescribed by the

Secretary of State, a description of such investment trust shares which shall state under oath:

- (a) The name of such investment trust shares;
- (b) The name and address of the trustee;
- (c) The name and address of the person, firm, or corporation creating or sponsoring such investment trust shares or depositing the securities in the trust;
- (d) The name and address of the person, firm, or corporation having general charge of the distribution of such investment trust shares;
- (e) All deductions which may be made from the trust estate or the income therefrom (except taxes and other governmental charges and distributions to the holders of such investment trust shares) together with reference to the provisions of the trust agreement providing for such deductions;
- (f) A full and complete statement of the method of meeting continuing trustee's fees throughout the life of the trust.

The foregoing description shall be accompanied by a copy of the trust agreement, copies of any and all agreements relating to or in any way affecting the administration of the trust, and copies of all prospectuses, circulars, or advertisements then prepared to be used in connection with the sale of such investment trust shares to the public.

Not less than twenty-five copies of such statement, wholly printed or wholly typewritten, shall at the time of filing the original statement be filed with the Secretary of State. The printed or typewritten copies so filed shall bear at the top in bold-face type the expression:

"INVESTMENT TRUST SHARES."

"THIS STATEMENT IS PREPARED BY PARTIES INTERESTED IN THE SALE OF SECURITIES HEREIN MENTIONED. NEITHER THE STATE OF ILLINOIS, NOR ANY OFFICER OF THE STATE ASSUMES ANY RESPONSIBILITY FOR ANY STATEMENT CONTAINED HEREIN NOR RECOMMENDS ANY OF THE SECURITIES DESCRIBED BELOW:"

Such registration shall be completed when the information above described, together with the accompanying documents and the fees hereinafter required, shall be received in the office of the Secretary of State. Such registration shall be automatically revoked whenever any security in the trust listed on a stock exchange approved under paragraph (4) of Section 4 of this Act, which is not otherwise a Class A security as defined in paragraphs (1), (2) and/or (3) of Section 4 of this Act, shall cease to be listed on any stock exchange approved under paragraph (4) of Section 4 of this Act, provided, however, that if such security is eliminated from the trust such registration shall automatically be restored. In the event of any amendment of the trust agreement, or of the happening of any event affecting the statements contained in the description, a new description shall be filed.

At the time of filing any such description and annually thereafter so long as such investment trust shares shall be sold in this State, there shall be paid to the Secretary of State (in lieu of all other fees required by this Act) a fee of \$100.

After registration of such investment trust shares in the manner hereinbefore described any person, dealer, broker, solicitor, or agent registered under the provisions of Section 23, 23a, and 23b of this Act, may sell the same at any price within the limitation provided in paragraph 4 of this Section 7a.

3. All investment trust shares which are not registered by description under the foregoing provisions shall, before being sold in this State, be registered by qualification in the manner hereinafter in this Section 7a provided.

An application for qualification shall be filed in the office of the Secretary of State by the person, firm, or corporation having general charge of the distribution of such investment trust shares. Such application shall be on forms prescribed by the Secretary of State and shall include all of the information required by the foregoing paragraph 2.

The application shall also state the names, addresses, and business affiliations of the officers and directors or the partners of the applicant and of the person, firm, or corporation creating or sponsoring such investment-trust shares or depositing the securities in the trust. The Secretary of State in his discretion may from time to time require such other information as he may at any time deem necessary or appropriate to determine the fitness of such investment trust shares for qualification.

At the time of submitting the application the applicant shall pay to the Secretary of State a filing fee of \$10.

The Secretary of State, in his discretion, may make or cause to be made an examination of all matters appertaining to the trust, including the applicant, the person, firm, or corporation creating or sponsoring such investment trust shares or depositing such securities in the trust and the trustee, and may require the applicant to advance sufficient funds to pay for all or any part of the actual expenses of such examination, an itemized statement of which shall be furnished to the applicant.

Not less than twenty-five copies of such statement, wholly printed or wholly typewritten, shall at the time of filing the original statement be filed with the Secretary of State. The printed or typewritten copies so filed shall bear at the top in bold-face type the expression:

"INVESTMENT TRUST SHARES."

"THIS STATEMENT IS PREPARED BY PARTIES INTERESTED IN THE SALE OF SECURITIES HEREIN MENTIONED. NEITHER THE STATE OF ILLINOIS, NOR ANY OFFICER OF THE STATE, ASSUMES ANY RESPONSIBILITY FOR ANY STATEMENT CONTAINED HEREIN NOR RECOMMENDS ANY OF THE SECURITIES DESCRIBED BELOW."

Unless the Secretary of State shall find:

(a) That the character of securities to be deposited, the proposed offer or disposal of such investment trust shares, the plan of issuance and sale thereof, or the plan of administration of the trust under the trust agreement is fraudulent or would work or tend to work a fraud; or

(b) That adequate provision has not been made to meet continuing trustee's fees throughout the life of the trust, then the Secretary of State shall notify the applicant that upon payment of the registration fee of \$100 the qualification of such investment trust shares will be registered. Such registration fee shall be paid annually thereafter, and in the event of failure to make such payment such registration shall be automatically revoked. Such qualification may be revoked at any time by the Secretary of State for cause.

After registration of such investment-trust shares with the Secretary of State, any person, dealer, broker, solicitor, or agent registered under Sections 23, 23a, and 23b of this Act may sell the same at any price within the limitation described in paragraph 4 of this Section 7a.

4. No investment-trust shares shall be sold in this State unless, on the date of sale to the public, the market value of the securities underlying the same plus the fair value of any other property and cash applicable to each investment-trust share so sold is equivalent to not less than 90% of the sales price of such investment-trust share to the public. The market value of each underlying security

which is listed shall be determined during periods while the exchange on which such security is listed is open, by actual transaction prices on such exchange, computed at odd-lot prices and including customary brokerage commissions actually paid. During periods while the exchange upon which any such underlying security is listed is closed, such market value shall be determined by the last closing asked price thereof figured at odd-lot prices and including customary brokerage commissions actually paid. The market value of any unlisted security shall be determined as nearly as is reasonably possible in the same manner as the market value of a listed security as hereinabove set forth.

5. The Secretary of State may suspend or revoke the registration of any person, dealer, solicitor, or agent violating any of the provisions of this Act (as amended by Act approved June 7, 1935).

Laws of Alabama Regulating Fixed Trusts

Alabama Laws of 1931, Act No. 656, Section 12, gives the State Securities Commission power to make rules and regulations as follows:

* * * The Commission is given power to make all such reasonable rules and regulations as it may deem necessary to carry out its duties under this Act.

Pursuant thereto the Commission has made certain rules and regulations relating to fixed trusts, as follows:

REQUIREMENTS FOR FIXED OR RESTRICTED MANAGEMENT-TYPE INVESTMENT TRUSTS—BANKER'S SHARES

RULE 14

SECTION 1. Applications seeking the registration of investment-trust shares or certificates of the fixed or restricted management type must be made upon the Commission's Form C1 and accompanied by the documents, data and exhibits therein required.

SECTION 2. Only a bank or trust company organized and existing under a state banking law or a national banking association incorporated under the laws of the United States, having trust powers, may act as trustee.

SECTION 3. All of the property in which the holders of the trust certificates have a beneficial interest, including cash however received, must be treated by the trustee in a manner similar to property held under a personal deed of trust.

Duties and obligations assumed by the trustee must be similar to those of a trustee of a personal trust under a deed, and the trustee may not delegate any of its duties to others unless the offering advertisement and circular clearly and prominently describe the nature of the power delegated and the persons by whom such powers will be exercised. The following duties of a trustee may in no event be delegated:

(a) Determination of the market value of the deposited property in connection with the surrender or maturity of trust certificates.

(b) Determination of the genuineness and validity of deposited securities.

(c) Determination of the time, place, and manner in which eliminated securities shall be sold.

(d) Determination of the time, place, and manner in which additional securities shall be purchased, if the proceeds of eliminated or other property are to be reinvested.

No provision shall relieve the trustee of responsibility for the genuineness of the certificates issued by the trustee.

SECTION 4. Neither the depositor nor the trustee may be entitled to rely in any matter affecting the holders of trust certificates upon the opinion of counsel, excepting in purely legal matters.

SECTION 5. A reasonable method must be provided by which continuing maintenance charges are to be met throughout the life of the trust. If these charges are to be paid by the depositor corporation, reasonable assurance of its ability to meet them must be given.

SECTION 6. For the purpose of computing the cash surrender value of investment-trust shares or certificates the market value of the underlying securities shall be computed in a manner whereby the shareholder shall obtain a fair and just distribution. Any of the following are recognized by the Commission as being a fair and just method of making such a computation:

(a) The last reported sale of the underlying securities as of the date of surrender as determined from published quotation sheets.

(b) The average between the highest and lowest sales prices of the underlying securities as of the date of surrender, as determined from published quotation sheets.

(c) In the event there are no sales of the underlying securities, the last quoted asked price, or the mean between the closing bid and closing asked price as of the date of surrender, as determined from published quotation sheets.

SECTION 7. The aggregate amount of the "load" shall not be in excess of 10 percent of the actual market value of the underlying securities.

Ordinarily the "load" shall be considered to be the amount paid in by the purchaser, which is applied to fees, profits, cost of distribution, and maintenance and service charges payable during the life of the trust.

For the purposes of this Rule the actual market value of the underlying securities shall be deemed to be the actual market sales price of the underlying securities plus brokerage, or, in the event there are no sales, the asked price without the addition of any brokerage. If the securities are not listed, the actual market value of the underlying securities shall be deemed to be the actual market sales prices of the securities involved, or, if there are no sales, the actual market value shall be computed in a manner fair and just to the purchaser.

SECTION 8. Adjustment in the offering price of investment trust shares or certificates will be allowed as follows:

(a) In the case of certificates originally offered for \$1.00 or less per certificate, the allowable adjustment shall be to the next higher cent.

(b) In the case of certificates originally offered for not less than \$1.00 nor more than \$5.00 per certificate, the allowable adjustment shall be to the next higher one-twentieth of a dollar.

(c) In the case of certificates originally offered for \$5.00 or more per certificate, the allowable adjustment shall be to the next higher one-eighth of a dollar.

SECTION 9. Offering circulars and advertisements must ordinarily include the following information:

(a) Statement of the amount of loading, in relation to the actual market value of the underlying securities.

(b) Statement of determination of offering price.

(c) Statement of periodic charges.

(d) Provisions in regard to eliminations and substitutions.

(e) Method of making distributions.

(f) Voting rights.

(g) A description of the reserve fund, if any, and the purposes thereof.

The Commission reserves the right to call for proof of any statistical charts or records concerning the trust, or any or all of the underlying securities thereof, contained in the offering circular or any advertisement.

SECTION 10. The Commission will ordinarily insert in orders granting registration to investment trust shares or certificates under this Rule, in addition to other conditions which it may deem advisable, standard conditions concurrent as follows:

(a) That said applicant company instruct the trustee to furnish to this Commission periodical monthly reports of the number of the trust certificates outstanding and a list of eliminations and changes in the portfolio as such eliminations and changes occur, with complete details of such transactions.

(b) That said applicant company during the life of this registration file with this Commission all changes in the personnel of its officers and directors within thirty days after such change is made.

(c) That said applicant company following not more than every two successive distribution dates, and at such other time or times as this Commission or its President or his deputy may reasonably require, cause to be made of the trust fund a periodical audit (including a verification and classification of cash and an actual count of the underlying stock certificates) by a Certified Public Accountant and that said company cause a true copy thereof bearing the certificate of the Certified Public Accountant making same to be promptly filed with the President of this Commission and that same be approved by said President or his deputy.

(d) That said applicant company during the life of this registration after compliance with (c) hereof, publish or cause to be published in a daily newspaper published at ----- a true copy of the balance sheet of said audit, together with the Certificate of the Certified Public Accountant making same, and that said company within not more than ten days after the publication thereof file or cause to be filed with this Commission a copy of the said newspaper containing such published copy of said balance sheet.

(e) That the trust shares hereby registered be sold strictly in accordance with the terms of the application and the exhibits submitted to this Commission, and that said applicant company shall not change the method of loading, the method of computing cost of deposited property or the method of determining price from the methods stated in the application in such manner as to create an increase in such loading, cost or price, without the prior approval of this Commission.

(f) That said applicant company submit to this Commission for approval, prior to issuance, all offering circulars and advertisements of like nature to be used by it or any distributor under its control, together with any such advertisements and descriptive literature as may be from time to time requested.

(g) That said applicant company shall not permit any distribution of the trust shares hereby registered or any one subject to its control, to advertise or to issue circulars in any way contrary to the rules or regulations of this Commission, and specifically not to include either in advertisement or circular any statement tending to suggest that the above described investment trust has been approved in any manner by this Commission.

(h) That said applicant company shall, in the event of changes in the requirements, rules and/or regulations of this Commission covering fixed or restricted management type of investment trusts, co-operate in complying therewith to any reasonable degree permitted by the terms of the trust indenture.

SECTION 11. The filing fee to accompany an application under this Rule shall be, under the provisions of Section 9885 of the Alabama Securities Act, computed as follows:

(a) The flat filing fee of \$25.00; plus

(b) 50¢ per each thousand dollars of the aggregate selling price. The aggregate selling price shall be deemed to be the product obtained by multiplying the number of trust shares for which registration is sought (which number must be definitely stated in the application) by the offering price of the trust share or certificate as of the day upon which the application is executed.

SECTION 12. Applications seeking the registration of so-called banker's shares must be prepared pursuant to the provisions of Rule 6, and the financial statements required thereby must be submitted concerning the issuer of the underlying issue.

The filing fee to accompany such application shall be computed as above provided by Section 11 of this Rule 14.

An adequate trust or deposit agreement must be filed.

In cases where only routine duties are assumed by the trustee or depository, the aggregate amount of the "load" shall not be in excess of 5 per cent of the actual market value of the underlying securities as above described in Section 7 of this Rule 14.

Laws of California Regulating Fixed Trusts

The Corporate Securities Act of California (Laws of 1917, Chapter 532, as amended), provides in Section 5 that the commissioner of corporations

* * * shall have the power to establish such rules and regulations as may be reasonable or necessary to carry out the purposes and provisions of this Act.

Pursuant to this authority, the Commissioner has made certain rules and regulations as follows:

REGULATIONS PERTAINING TO THE ISSUANCE OF INVESTMENT TRUST CERTIFICATES OR SHARES

(Chapter 20, Rules and Regulations of the Division of Corporations, Department of Investment, California)

Effective December 1, 1932

SECTION 1. Every company proposing to issue Investment Trust Certificates or Shares must create a Trust with a bank or trust company organized and existing under a State Banking Law or a National Banking Association incorporated under the Laws of the United States, having trust powers.

SECTION 2. In the event that there is a fixed portfolio, each security contained therein shall ordinarily have a rating of not less than "BAA" (Moody Rating) or equivalent.

SECTION 3. The aggregate amount of the "Load" shall not be in excess of 10 percent of the actual market value of the underlying securities.

The "Load" is the amount paid in by the purchaser which is applied to fees, profits, cost of distribution, and maintenance and service charges payable during the life of the Trust.

The actual market value of the underlying securities shall be deemed to be the actual market sales price of the underlying securities plus brokerage at the rate fixed on similar transactions by the New York Stock Exchange, or, in the event there are no sales, the bid price plus odd-lot brokerage. If the securities are not listed, the actual market value of the underlying securities shall be

deemed to be the actual market sales price of the securities involved, or, if there are no sales, the actual market value shall be computed in a manner fair and just to the purchaser.

SECTION 4. For the purpose of computing the cash-surrender value of Investment Trust Shares the market value of the underlying securities shall be computed in a manner whereby the shareholder shall obtain a fair and just distribution. Any of the following are recognized by the Division of Corporations as being a fair and just method of making such a computation:

(1) The last reported sale of the underlying securities as of the date of surrender as determined from published quotation sheets.

(2) The average between the highest and lowest sales prices of the underlying securities as of the date of surrender as determined from published quotation sheets.

(3) In the event there are no sales of the underlying securities, the last quoted price, or the mean between the closing bid and closing asked price as of the day of surrender, as determined from published quotation sheets.

SECTION 5. Advertisements and offering circulars must ordinarily include the following information:

(1) Statement of the amount of loading, in relation to actual market value of the underlying securities.

(2) Statement of determination of offering price.

(3) Statement of periodic charges.

(4) Provisions in regard to eliminations and substitutions.

(5) Method of making distributions.

(6) Voting rights.

(7) A description of the reserve fund, if any, and the purposes thereof.

Any statement or computation in advertising of investment trusts, either in writing or through the use of charts, purporting to show past experience of securities comprising the portfolios, must be confined to a period after the creation of the trust and must go back to the beginning of the trust and must show the result by years since such creation.

APPENDIX K

Requirements of the New York Stock Exchange for Fixed Trusts With Which Member Firms Are Seeking Authority for Association in Connection With Their Organization or Management or With the Distribution of Their Securities

The requirements of the New York Stock Exchange, applicable to fixed trusts, which were adopted on May 7, 1931, and amended on May 20, 1931, are set forth in this appendix. These requirements apply only to trusts with which a member of the New York Stock Exchange or a firm registered on the Exchange, desired to be associated either by participating in its organization or management or by offering or distributing its securities.

NEW YORK STOCK EXCHANGE

Requirements for Fixed or Restricted Management Type Investment Trusts With Which Member Firms are Seeking Authority for Association in Connection With Their Organization or Management or With the Distribution of Their Securities

The New York Stock Exchange is not prepared to express any opinion regarding the soundness of the principles underlying the formation of investment trusts of the fixed or restricted management type. It recognizes the wide popularity of such vehicles of investment and the fact that its members, whose business is dealing in securities, may properly enter into association with such investment trusts or their sponsors either in their formation, management, or the distribution of their securities, provided that the set-ups of such trusts do not contain provisions which in themselves appear to operate to the detriment of those who invest in their securities, and further provided that the information afforded to the public in connection therewith is not such as to be misleading or to conceal pertinent facts.

It should be fully understood, however, that the matters to be passed upon in this connection by the Committee on Stock List will have to do only with the question of trust provisions and of publicity which might tend to mislead the public, and will not be concerned with the question of the soundness of the idea behind trusts of the fixed or restricted management type.

The Committee on Stock List is now prepared to pass on the question of whether a given fixed or restricted management type investment trust is one with which the association of a member or firm registered on the Exchange appears to be unobjectionable. The right to amend these requirements, without notice, is reserved.

In order to qualify in this category, fixed or restricted management type investment trusts must make application to the Exchange and enter into an agreement with the Exchange in the form prescribed by the Committee on Stock List.

APPLICATION

An application, concurred in, or sponsored by a member of the Exchange or a member firm, must be submitted in twelve (12) printed copies. It must contain a suitable opening paragraph requesting the Stock Exchange to determine whether the applicant is a fixed or restricted management type investment trust with which the association of a member or firm, in connection with its organization or management, or with the distribution of its securities appears to be unobjectionable.

Thereafter it should give the following information:

1. Name of depositor corporation;
2. Date of organization of depositor corporation;
3. Names of the officers and directors thereof;
4. Date of execution of Trust Agreement and of initial public offering;
5. Name of trustee;
6. Number of shares or trust certificates, if any, outstanding in the hands of the public;
7. Details of composition of a unit and number of trust certificates evidencing participation therein;
8. A clear statement in regard to the following facts:

1. Whether the indenture or trust agreement provides that all of the property forming part of the trust must be treated by the trustee as trust property with a description of any exceptions.

2. Statement of the period after termination of the trust during which unclaimed funds must be retained by the trustee.

3. Statement of provisions in regard to giving notice to the beneficiaries as to termination of the trust.

4. Statement of the conditions under which individual trust certificate holders may terminate the trust as regards certificates owned by them.

5. A statement as to any of the duties and obligations ordinarily assumed by a trustee of a personal trust under a deed, which are delegated to others than the trustee; or in regard to which the trustee may receive instructions from others, naming the persons or institutions who may thus influence the management of the trust.

6. A statement as to whether the trustee assumes full responsibility for the determination of the market value of the deposited property in connection with the surrender or maturity of trust certificates;

whether it assumes responsibility for the determination of the genuineness and validity of the deposited securities;

whether it assumes the responsibility of determining the time, place, and manner in which eliminated securities shall be sold;

whether it assumes the responsibility of determining the time, place, and manner in which additional securities shall be purchased, if the proceeds of eliminated or other property are to be reinvested; and

whether it assumes full responsibility for the validity of the certificates issued by it.

7. A concise statement of the provisions for giving certificate holders the right to exercise a vote as to their interest in deposited securities.

8. A statement of the method in which stock dividends, rights, and split-ups will be treated, and if of the distributive type, a statement of the method of distribution of amounts received from eliminations not available for reinvestment.

9. A statement of any provisions granting any right of extension of the trust.

10. A summary of any provision in the Trust Agreement as to matters in which the depositor or the trustee may be entitled to rely upon opinion of counsel.

11. A clear statement in narrative form summarizing all charges made against holders of trust certificates to cover expenses and profits of either the trustee or the depositor corporation.

This should include all loading charges at time of distribution with a statement as to the basis of costs to which such loading charges are applied and the percentage of such loading charges to the value of the underlying trust property as of the date of application, also a statement of any maintenance charges which may be deducted from distributions during the life of the trust, relating such charges, in terms of percentages, both to the value of the underlying trust property as of the date of application and to the income therefrom on the basis of current cash distributions received upon securities and property held. If such maintenance charges assume the form of crediting to either the trustee or the depositor corporation the interest upon a reserve fund and/or distributable cash if any, this fact must be stated and must be accompanied by an estimate as nearly as may be made of the percentage relation of such interest to the value of the underlying trust property as of the date of application and also of the percentage relation to the current cash income as above described.

If any charge is made against certificate holders at the time of surrender of certificates and termination of the trust, whether such termination occurs at the instance of the certificate holder, or otherwise, the amount of such charge must be stated, expressed in terms of its percentage relation to the value of the underlying trust property as of the date of application. Any other direct or indirect charges or deductions must be included in this statement, where the nature of the charge permits the expression of this ratio.

12. A statement of any provisions covering elimination of the deposited securities, as well as of all provisions providing for substitutions.

13. A description of the reserve fund, if any, together with the amount thereof per trust certificate outstanding at the time of the application.

14. A description of the method by which continuing maintenance charges are to be met throughout the life of the trust.

The application in question should include agreements with the Exchange in the following form:

In consideration of the determination by the New York Stock Exchange that -----, a fixed or restricted management type investment trust, is one with which the association of a member of the Exchange or a firm registered thereon, in connection with its organization or management or in connection with the distribution of its securities is unobjectionable, the undersigned depositor corporation on its own behalf and for said investment trust agrees with the New York Stock Exchange as follows:

1. To instruct the trustee to furnish to the Committee on Stock List of the New York Stock Exchange periodical monthly reports of the number of trust certificates outstanding and a list of eliminations and changes in the portfolio as such eliminations or changes occur, with complete details of such transactions.

2. To submit to the Committee on Stock List for approval, prior to issuance, all offering circulars and advertisements of like nature to be used by it or any

distributor under its control, together with such other advertisements and descriptive literature as may be from time to time requested.

3. To conform in all respects to the requirements of the New York Stock Exchange as such requirements existed at the time of application, excepting insofar as, such investment trust and depositor corporation, or either of them, may have been relieved therefrom in cases where the trust in question was formed and the terms of its trust agreement fixed prior to the adoption by the New York Stock Exchange of such requirements.

4. Not to permit any distributor of the securities of said investment trust or anyone subject to the control of the depositor corporation, to advertise or to issue circulars in any way contrary to the rules or regulations of the New York Stock Exchange, and specifically not to include, either in advertisement or circular, any statement tending to suggest that said investment trust has been approved in any manner by the New York Stock Exchange.

5. In the event of changes in the requirements of the New York Stock Exchange covering fixed or restricted management type investment trusts, to cooperate in complying therewith to any reasonable degree permitted by the terms of the trust agreement.

6. Not to change the method of loading, the method of computing cost of deposited property, or the method of determining price, from the methods stated in the application, in such manner as to create an increase in such loading, cost or price, without the prior approval of the Committee on Stock List.

7. In the event that the Committee on Stock List shall at any time hereafter and for any reason which, in its uncontrolled discretion, it shall deem sufficient, change its determination that said investment trust is one with which the association of a member of the Exchange or a firm registered thereon in connection with its organization or management or in connection with the distribution of its securities is unobjectionable, the undersigned depositor corporation hereby waives and releases any right or claim which it might or could have against said Committee on Stock List and the New York Stock Exchange by reason of such change of determination, provided that before said determination shall be changed said Committee on Stock List shall upon seven days' notice in writing afford the undersigned depositor corporation an opportunity to be heard.

FEES

For the consideration of applications prepared as outlined above, a fee of Two Thousand Five Hundred Dollars (\$2,500.00) will be charged, which fee must accompany the application. In the event of applications being disapproved, there will be rebated to the applicant such portion of the fee as the Committee in its discretion may determine. For the work entailed in connection with the consideration of advertisements and circulars, a fee may be charged which will not be in excess of Ten Dollars (\$10.00) per advertisement or circular, except in unusual circumstances.

DOCUMENTS TO ACCOMPANY APPLICATION

With each application, the following documents in duplicate must be submitted to the Committee on Stock List:

Charter of corporation.

By-Laws of corporation.

Trust agreement or similar contract.

All other agreements affecting the trust.

Offering circular.

Make-up or price sheet.

Important advertisements issued within the last six months.

Advertisements, of a nature similar to offering circulars, in contemplation for issuance.

Balance sheet and income statement of the depositor corporation.

STATEMENT OF POLICY

In considering applications, the following principles will govern the Committee on Stock List.

STATEMENT AS TO TYPE OF TRUST

Neither the title of the trust, nor any descriptive literature used in regard thereto by the depositor corporation, members of the Exchange, or agencies under the control of either, may contain words which inaccurately describe the nature of the trust. In this connection, neither the term "Fixed," nor any compound, nor derivative thereof, shall be used to describe an investment trust in which substitutions of securities may be made; a trust may not be described as being of the restricted-management type, or other similar words, if neither the trustee nor the depositor corporation may eliminate securities (other than those resulting from split-ups or stock dividends) excepting under some fixed formula on the one hand, nor if either the trustee or the depositor corporation has a wide discretion in eliminations or substitutions on the other hand. Investment trusts may not be described as being of the management type without qualification if there are serious restrictions upon the elimination or substitution of securities.

Diversification.—A reasonable degree of diversification will be considered essential.

CONCERNING THE DUTIES OF THE TRUSTEE

Appointment of trustee.—Only a bank or trust company organized and existing under a State banking law or a national banking association incorporated under the laws of the United States, having trust powers, may act as trustee.

All assets to be treated as trust property.—All of the property in which the holders of the trust certificates have a beneficial interest, including cash however received, must be treated by the Trustees in a manner similar to property held under a personal deed of trust.

Provisions in regard to termination.—Upon the termination of the trust, unclaimed funds should be retained by the trustee and proper provision in regard to giving notice to the beneficiaries by mail, if the certificates are registered, and by publication, if they are in bearer form, should be included in the indenture.

The trust agreement must provide for the termination of the trust as to any individual trust certificate upon reasonable terms and upon reasonable notice from its holder. If, upon such termination, part of the deposited securities must be liquidated, not only must all fees in connection therewith be reasonable, but the brokerage commissions deductible from the amount payable to the certificate holder shall not exceed, on listed securities, the commissions prescribed by the Constitution of the New York Stock Exchange as the minimum which may be charged to non-members, and for unlisted securities the commissions customarily payable on similar transactions.

Administration of the trust property.—The duties and obligations assumed by the trustee must be similar to the duties and obligations of a trustee of a personal trust under a deed, and the trustee may not delegate any of its duties

to others unless the offering advertisement and circular clearly and prominently describe the nature of the powers delegated and the persons by whom such powers will be exercised.

The following duties should be performed by the trustee:

(1) The determination of the market value of the deposited property in connection with the surrender or maturity of trust certificates;

(2) The determination of the genuineness and validity of deposited securities.

While the Committee greatly prefers to have the following duties performed by the trustee:

(1) The determination of the time, place, and manner in which eliminated securities shall be sold;

(2) The determination of the time, place, and manner in which additional securities shall be purchased, if the proceeds of eliminated or other property are to be reinvested; complications which may arise because of existing agreements will be given due weight.

No provision shall relieve the trustee of responsibility for the genuineness of the certificates issued by the trustee.

The Trust Agreement should provide or the Trustee should agree that in all practicable cases sales and purchases of securities will be made through a recognized Exchange and that delivery of and payment for securities eliminated or substituted will be between the Trustee and the broker or dealer.

Voting power.—Trust agreements, or agreements supplementary thereto must provide that in each case where a trust certificate holder would be entitled, upon termination of the trust, to receive certificates for one or more full shares of deposited stock having a vote, there will be issued to him, upon request, an assignable proxy covering the number of full shares represented by his equity, excepting in approved cases where definite instructions as to the manner in which such shares must be voted in certain contingencies are prescribed in the trust agreement. No objection is made to the voting by the depositor or by the trustee of any deposited shares for which such proxies have not been requested. The depositor corporation should note that, in view of the fact that the right to vote may affect the nature of the deposited security in respect of which the vote is exercised, trust indentures may have to provide that the certificate holder who has destroyed the uniformity of his interest in the trust by exercising his right to vote shall be deemed to have terminated the trust in regard to his certificates.

As an alternative to the foregoing, the Committee will approve an agreement by the depositor corporation providing that in any case where a substantial controversy has arisen between two or more opposing groups of stockholders of a company whose stock is held in the trust, or a substantial issue exists, in connection with which the interests of certificate holders require that they be permitted to direct the voting of such stock, each certificate holder shall be entitled to file written instructions with respect to the voting of the stock held in the trust. Such stock shall be voted proportionately, in the manner directed by the several certificate holders, the depositor corporation, or the trustee, as the case may be, retaining the right to direct the vote of such proportion of the stock as shall not be allocable to certificate holders exercising this right to vote. In all cases where, in the judgment of the trustee, or of the depositor corporation, the result of the vote may affect the nature, identity, or rights of the deposited stock, all of such stock held in the trust shall be voted as a unit in accordance with the instructions controlling a majority of the deposited stock. A substantial controversy or issue shall be deemed to exist when so determined

by the depositor corporation, the trustee, or the New York Stock Exchange, acting through any of its Committees.

Distribution or investment of proceeds of eliminated property.—All amounts received from eliminations and not available for reinvestment, with the exception of fractional amounts, must be distributed within a reasonable time.

Extension of trust.—If the trust agreement grants any right of extension, the fact must be stated in the offering circular.

Opinion of counsel.—Neither the depositor nor the trustee may be entitled to rely in any matter affecting the holders of trust certificates upon the opinion of counsel, excepting in purely legal matters.

Continuing maintenance charges.—A reasonable method must be provided by which continuing maintenance charges are to be met throughout the life of the trust. If these charges are to be paid by the depositor corporation, reasonable assurance of its ability to meet them must be given.

Regarding trust agreements formulated prior to the issuance of these requirements.—As to trust agreements formulated and in effect prior to the issuance of these requirements under conditions not permitting change, the Committee may make such reasonable adaptations as it may determine to be in conformity with the general spirit and object hereof.

CONCERNING THE OFFERING CIRCULAR

Loadings, charges, and deductions.—The loading charges and other factors entering into the aggregate load must be expressed so clearly that the investor will be able to determine the relation between it and the value of the underlying property. For this purpose and for the purpose of the application, the value of the underlying property shall consist of the actual market value of the underlying securities, at the date of issuance of circular, or application, at not more than odd-lot prices, determined in the manner customary on the New York Stock Exchange, which, in the case of active listed stocks, would be determined by adding the fraction normally charged by odd-lot houses to the actual market transactions in the securities involved, or by using the asked price without the addition of any fraction, plus commissions at not to exceed, for listed securities, the commissions prescribed by the Constitution of the New York Stock Exchange as the minimum which may be charged to nonmembers, and for unlisted securities the commissions customarily payable on similar transactions.

The following are among the factors which the Committee consider elements in the loadings, charges, and deductions:

(a) A percentage for expenses and profits to be added to the value of the underlying property as above defined. While distributable accretions form a proper element for inclusion in the offering price, no loading percentage may be added thereto, excepting so much, if any, as may be necessary to cover approximate expense of distribution of proceeds of eliminations.

(b) Any periodical charge. This must be stated as a percentage of the current annual income, and may also be stated as a percentage of the value of the underlying property as above defined. In determining the amount of current annual income, there shall be included only cash dividends at the rate currently payable, and interest receivable at current rates. If interest on any cash forming part of the deposited property or accumulations does not accrue to the certificate holders, the amount of interest shall be deemed to be part of the periodical charge.

(c) Any charge which may be assessed against the trust certificate holder at the time of surrender of his certificates and termination of the trust, whether

at the instance of such certificate holder or otherwise, under the terms of the trust agreement.

Statement of the amount of loading.—The aggregate amount of the loading in excess of the value of the underlying property as hereinbefore defined must be stated in terms of percentage of such value at date of issuance of circular. The aggregate amount of any periodical charges must be stated as a percentage of the current annual income as hereinbefore defined. The amount of any termination charge under any conditions must be stated as a percentage of the value of the underlying property at date of issuance of circular.

Determination of offering price.—The offering price shall be the sum of

- (1) the market value as hereinbefore defined of the underlying property;
- (2) the load described in paragraph (a) above; and
- (3) the amount of distributable accretions.

In the case of certificates originally offered for \$1 or less per certificate, the offering price may be increased to the next higher cent, if such sum results in a price per certificate which includes a fraction of one cent.

In the case of certificates originally offered for more than \$1 and less than \$5 per certificate, the offering price may be increased to the next higher twentieth of a dollar, if such sum results in a price per certificate which includes a fraction of one-twentieth of a dollar.

In the case of certificates originally offered for \$5 or more per certificate, the offering price may be increased to the next higher one-eighth of a dollar, if such sum results in a price per certificate which includes a fraction of one-eighth of a dollar.

Eliminations and substitutions.—The offering circular shall have a clear summary of the provisions covering elimination of the deposited securities, as well as of all provisions providing for substitutions.

Reserve fund.—There must be a statement whether a Reserve Fund has been deposited in addition to the deposited securities. If there is such a fund the amount thereof per trust certificate outstanding at the time of issuance of the circular must be stated together with a statement that this amount is subject to fluctuation and that information as to the amount included in the price charged any purchaser will be given upon request.

Method of making distributions.—There must be a statement as to whether the trust is of the cumulative, partial distribution, or maximum distribution type, and the method in which stock dividends, rights, and split-ups will be treated must be fully described.

Voting rights.—There must be a clear statement as to the manner and conditions upon which a trust certificate holder may exercise voting rights.

Past experience.—No statement or computation may be included tending to reflect results, either as to market valuation or as to distributions, which would have been obtained if an investment had been made in the securities comprising the portfolio at any period prior to its creation. Any statement or computation of this character for periods after the creation of the trust in question must go back to the beginning of the trust, and must show the result by years since such creation.

CONCERNING ADVERTISEMENTS

Advertisements containing any of the information usually included in the offering circular must include no less than the following in substantially the same form in which similar information is contained in offering circulars.

- (1) Statement of the amount of loading.
- (2) Statement of determination of offering price.

- (3) Statement of periodic charges.
- (4) Provisions in regard to eliminations and substitutions.
- (5) Method of making distributions.
- (6) Voting rights.

No statement which is considered objectionable in the circular may be included in the advertisement.

FURTHER DEFINITION OF POLICY

The foregoing statement of policy deals with the position of the Committee in reference to certain determinable facts. It would be easy to overemphasize the relative importance of such facts. The composition of the portfolio of underlying securities, for instance, or the nature of the elimination provisions, may easily be the most important factors in the suitability of the trust for the needs of a particular investor. The action of the Committee, in determining that the association of members of the Exchange with any particular investment trust is not objectionable, should in no event be construed as an expression of opinion in regard to the intrinsic value of such trust or its desirability as an investment.

NEW YORK STOCK EXCHANGE

Amended Statement Regarding Association of Member Firms With Investment Trusts

The Committee on Stock List, under the authority conferred upon it by the Governing Committee, hereby changes and amends the rules announced in a Statement approved May 7, 1931, regarding association of member firms with Investment Trusts by striking out the words:

"except that members who on May 7, 1931, were so associated with an investment trust may relieve themselves temporarily from the operation of this rule by filing with the Committee on Stock List on or before May 31, 1931, a letter setting forth in detail any such existing association.

"The exception is made in order that members may not be disturbed in carrying on for the time being their existing associations with fixed or restricted management type investment trusts. Their obligation for the moment is limited to making to the Committee on Stock List a full statement of any such association.

"As soon as the Committee on Stock List concludes that a reasonable time has been allowed for all members having such associations to present the facts so that the Committee on Stock List may be able to determine whether the association is objectionable or not, the Committee will fix a time after which the association of members with fixed or restricted management type investment trusts will be limited strictly to such trusts as shall have met the requirements of the Committee."

and by amending said rules to read as follows:

The Governing Committee at its meeting on May 7, 1931, on the joint recommendation of the Committee on Business Conduct and the Committee on Stock List, amended Sec. 2 of Chapter XIV of the rules adopted by the Governing Committee pursuant to the Constitution, so as to read:

"SEC. 2. No member or firm registered on the Exchange shall be associated with an investment trust, whether management, restricted management or fixed type, either by participating in its organization or management or by offering or distributing its securities, unless the Committee on Stock List shall have previously determined that it has no objection to such association and shall not have changed such determination."

and adopted the following resolutions:

Resolved, That, in addition to the powers conferred on it by the Constitution, the Committee on Stock List is authorized to make such rules and regulations as it may deem necessary in regard to the association of a member or firm registered on the Exchange with an investment trust.

Further resolved, That the Committee on Stock List is authorized to determine the time and manner in which it shall give effect to the recent amendment of Sec. 2 of Chapter XIV of the rules adopted by the Governing Committee pursuant to the Constitution.

Pursuant to the authority conferred on it by these Resolutions, the Committee on Stock List has adopted the following rules:

No member or firm registered on the Exchange may hereafter be associated with a fixed or restricted management type of investment trust, either by participating in its organization or management or by offering or distributing its securities, unless the Committee on Stock List shall have determined that said trust is one with which the association of a member or firm registered on the Exchange in any of the foregoing capacities appears unobjectionable and shall not have changed such determination.

The Committee on Stock List does not intend to make an announcement of its determination as to whether it finds membership association with any particular investment trust unobjectionable until after such time as may prove to be necessary to examine all applications received prior to a short period before such announcement. This determination is in order to enable it to announce simultaneously its decision as to a number of investment trusts without preference of one over the other.

At the time of such announcement, a bulletin will be sent to members giving the names of all investment trusts of the fixed or restricted management type as to which the Committee on Stock List shall have determined that it has no objection to association by a member or firm registered on the Exchange. The bulletin will fix a date after which association with any investment trust not listed in such bulletin or in a later bulletin will be deemed objectionable.

In the meantime, as a temporary measure and until the issuance of the first bulletin, the Committee on Stock List will deem association by members or firms registered on the Exchange with investment trusts of the fixed or restricted type unobjectionable irrespective of the date of the formation of such investment trust or of the date when such association began and irrespective of whether or not any information in regard to such investment trust has heretofore been filed with any Committee of the Stock Exchange, provided the following conditions are observed:

1. The member or firm registered on the Exchange shall file a letter with the Committee on Stock List stating the name of the investment trust and the detailed facts concerning such association. With respect to any existing association, such letter should be filed immediately. With respect to any association formed subsequent to the date of the issuance of this statement, the letter should be filed within three days after any such association.

2. The letter should state that the member or firm registered on the Exchange has received a letter from the investment trust named or from its depositor corporation reciting (a) that no objection has heretofore been made by the Committee on Business Conduct as to any of the features of such investment trust; (b) if such objection has been made that the objectionable features of such investment trust have been removed; (c) that it is the intention of the investment trust to make application promptly to the Committee on Stock List for determination with respect to the association of a member or firm regis-

tered on the Stock Exchange with such investment trust; (d) that the investment trust believes that it can, pursuant to the requirements heretofore issued, establish that such association with such investment trust by a member or firm registered on the Exchange is unobjectionable; and (e) that pending action upon such application to the Committee on Stock List it will in all respects conform to the letter and spirit of said requirements in good faith and to the best of its ability.

The foregoing temporary regulations are made in order not unduly to hamper the conduct of business between members and fixed or restricted management type investment trusts during the period of the examination of what may prove to be a large number of applications.

The obligation of members and of firms registered on the Exchange, with respect to the rules and regulations promulgated by the Committee on Stock List, will not, for the immediate present, extend beyond compliance with the conditions above stated. It will not be necessary for members who, prior to the date of the issuance of this statement, have advised the Committee on Stock List of their associations existing on May 7, 1931, to take any further action as to the investment trust named by them in such advice, except as may be indicated by correspondence with the Exchange arising out of such notification.

For the purpose of these requirements, the association with a fixed or restricted management type investment trust, of a partner in a firm registered on the Exchange, even though such partner is not himself a member, will be regarded as association on the part of the registered firm with such investment trust. In cases, however, where such association of a nonmember partner of a registered firm is confined to a directorship in a depositor corporation, and where no other member of the firm is connected in any capacity with the investment trust, consideration will be given to the facts and circumstances, which should be set forth in writing. In the discretion of the Committee on Stock List, an exception to the general rule may be made in such cases.

Dealing in the certificates of a fixed or restricted management type investment trust in the execution of unsolicited orders solely as a broker or over the counter will not be regarded as an association with such an investment trust, or as bringing a member within the foregoing rules, provided no commission or dealers' profit is received directly or indirectly from the investment trust or the depositor corporation.

Under the Statement and Requirements recently sent out, it will be necessary for all investment trusts of the fixed or restricted management type desiring to retain the association of a member or firm registered on the Exchange to make application to the Committee on Stock List, irrespective of whether or not information concerning such trust has heretofore been filed with any Committee of the Exchange and irrespective of the previous action of any Committee of the Exchange.

The requirements, including instructions regarding the application and agreement to be submitted, have been prepared and are now available for distribution.

Members are urged to bring this matter promptly to the attention of fixed and restricted management type of investment trusts with which they are or plan to become associated.

For the time being, the existing requirement that members must submit for approval all documents relating to management type investment trusts in the organization or management of which they participate will be continued, except that in the future all such documents shall be submitted to the Committee on Stock List instead of to the Committee on Business Conduct, as heretofore.

Adopted May 20, 1931.

APPENDIX L

Financial Data on 28 Depositors of Fixed Investment Trusts

The following table contains certain information relating to the depositors of the fixed trusts for which replies to the Commission's questionnaire were filed. There were 56 trusts which filed replies to the questionnaire. These trusts had a total of 28 depositors.

The data include a list of the trusts sponsored, the state and date of incorporation, a brief reference to the corporate powers, statements of authorized capitalization, assets at maximum, shares outstanding at December 31, 1935, and a statement of net assets at December 31, 1935.

			1929	Pennsylvania.	Generally to deal in stocks, etc.	5,000 no par.	5,000 no par.	(^d)	(^d)	(^d)	(^d)	(^d)
Combined Holdings Corporation.	Combined Trust Shares (of Standard Oil Group)			Pennsylvania.								
Cumulative Shares Corporation.	Cumulative Trust Shares.		1930	New York.	Plenary.	10,000 \$25 par.		(^d)				(^d)
Distributors Group, Incorporated.	North American Trust Shares:											(^d)
	1953											
	1955		1928	Delaware.	do.	20,000 no par.	{ 320,000 common, 10 cents par; 2,000 preferred, \$5 par.	{ 320,000 common	{ Dec. 31, 1932.	{ 2,391,142	{ 209,544	
	1956											
	1958											
Distributors Guild, Inc.	Trust Shares of America.		1928	New York.	do.	1,000 no par.	1,000 no par.	110	{ Dec. 31, 1931.	{ 36,729	{ 12,337	
Equity Securities Corporation (The).	Equity Trust Shares in America.		1930	Missouri.	do.	4,000 no par.	4,000 no par.	2,001	{ Dec. 31, 1934.	{ 59,427	{ 7,676	
Fundamental Group Corporation.	Fundamental Trust Shares.											
	Series A.											
	Series B.		1930	New York.	do.	1,000 \$100 par.	1,000 \$100 par.	1,000	{ Dec. 31, 1931.	{ 100,987	{ 55,383	
General American Securities, Inc.	Associated Standard Oil-stock Shares, Series A.		1929	do.	do.	(^d)	(^d)	{ 1,553 Cl. A. 9,000 Cl. B.	{ Dec. 31, 1935. ^A	{ 25,855	{ 25,855	
Independence Shares Corporation.	Associated National Shares, Series A.		1930	Delaware.	do.	6,000 preferred, no par; 8,000 common, no par.	\$50 par.	50	{ Dec. 31, 1930.	{ 119,219	{ 18,670	
Independence Trust Shares.	Independence Trust Shares.											
Investors Sponsor Corporation.	United Insurance Trust Shares.		1929	New York.	do.	200 no par.	200 no par.	(^d)	{ Dec. 31, 1934. ^A	{ 24,827	{ 9,952	
Investors Trustee Foundation of U. S., Inc.	United New York Bank Trust Shares.		1927	do.	do.	1,200 par \$1.	(^d)	(^d)	(^d)	(^d)	(^d)	
Mutual Depositor Corporation.	Investors Trustee Shares, Series A.		1931	do.	do.	1,000 \$100 par.	1,000 \$100 par.	750	{ July 31, 1931.	{ 49,979	{ 41,830	
	Representative Trust Shares.											

See footnotes at end of table.

United Endowment Foundation, Inc.	Foundation Trust Shares, Series A.	Delaware-----	1931	---do-----	5,000 preferred, par \$20; 10,000 common, no par.	1,000 preferred, \$50 par; 2,000 common, \$1 par.	1,000 preferred, 2,000 common.	Dec. 31, 1935.*	54,096	54,096
United States Electric Light & Power Shares, Inc.	United States Electric Light & Power Shares, Inc., Trust Certificates Series A----- Series B-----	-----do-----	1927	---do-----	2,000 no par-----	2,000 no par-----	10-----	{ Dec. 31, 1927-35. }	1,000	1,000

^a As of Feb. 28, 1936.
^b Balance sheets available for Mar. 31, 1935, Aug. 31, 1935, and Feb. 28, 1936, only.
^c Merged with American Depositor Corporation July 29, 1932.
^d Information not available.
^e Dissolved Oct. 28, 1933.
^f See also Distributors Group, Inc., which became the successor depositor on Jan. 1, 1935.
^g Cumulative Shares Corporation for 1931 to 1934.
^h As of Feb. 28, 1936.
ⁱ As of Aug. 31, 1935.
^j As of Jan. 31, 1936.
^k Balance sheets available for Oct. 24, 1933, Jan. 24, 1935, and Dec. 31, 1935, only.
^l No information available; American Associated Dealers, Inc., became successor depositor in 1931.
^m As of Oct. 31, 1935.
ⁿ Balance sheets for 1931 and 1932 missing.

APPENDIX M

Balance Sheet of Distributors Group, Incorporated, as of December 31, 1935

This appendix consists of a balance sheet of Distributors Group, Incorporated, as of December 31, 1935. Distributors Group, Incorporated, was the depositor for trusts which as a group achieved the largest sales to the public. This balance sheet is presented merely as a specimen and is taken from the reply to the Commission's questionnaire for North American Trust Shares, 1933, Exhibit L-8.

Distributors Group, Inc., Balance Sheet, Dec. 31, 1935

ASSETS	
Cash in banks and on hand-----	\$50, 159. 18
Accounts, advances, and drafts receivable:	
Demand drafts out for collection, etc. (pledged as collateral to bank loans, per contra)-----	\$257, 581. 52
Receivables for securities sold, not delivered (in- cluding \$192,531.20, the securities for which were pledged as collateral to bank loans, per contra) -----	1, 059, 057. 90
Advances to employees-----	2, 067. 47
Deposits for stock borrowed-----	2, 800. 00
Dividends and interest receivable-----	7, 801. 58
Other accounts receivable-----	6, 954. 67
	1, 336, 263. 14
Securities owned—At cost or less, market value \$436,000.30:	
Foreign Bond Associates, Inc.—\$11,700.00 prin- cipal amount 5% debentures (of which \$10,000.00 principal amount having a book value of \$13,920.00 was pledged as collateral to bank loans, per contra) (see note 5)-----	16, 286. 45
Other securities (of which securities having a book value of \$267,921.75 were pledged as col- lateral to bank loans, per contra) (see notes 3 and 4)-----	413, 280. 86
	429, 567. 31
Due from subsidiary company, Group Assets, Inc.:	
Deposit for stock borrowed—89,404 shares of common stock of The Equity Corporation, see contra -----	167, 632. 50
Miscellaneous -----	635. 65
	168, 268. 15

Investments in subsidiary companies:

Wholly owned subsidiaries, stated at underlying book values (see note 1):

Allied-Distributors, Inc.-----	113, 772. 79	
North American Distributors Group, Ltd.--	5, 474. 54	
Group Assets, Inc., approximately 68¾% owned, stated at cost (see note 2)-----	562, 763. 08	682, 010. 41

Revolving funds for the conversion of trust certificates-----		1, 000. 00
---	--	------------

Deposits to secure trustee's fees in connection with Cumulative Trust Shares:

Cash on deposit-----	\$332. 45	
Trust shares, at cost (market value \$7,740.00)--	6, 394. 69	6, 727. 14

Other assets:

Cash surrender value of officer's life insurance, less loans thereon of \$4,134.43-----	2, 811. 61	
Furniture and fixtures, less reserve for depreciation-----	7, 768. 04	
Prepaid expenses, etc-----	9, 651. 64	20, 231. 29
		<u>2, 694, 226. 62</u>

LIABILITIES

Demand bank loans—For which there was pledged as collateral: demand drafts, a portion of securities sold but not delivered, a portion of securities owned (all as per contra), and the entire holdings of Distributors Group, Incorporated, in the capital stock of Group Assets, Inc. (approximately 68¾ percent of the total capital stock), a subsidiary company-----

\$1, 190, 197. 29

Accounts payable:

Payable for securities purchased, not received--	\$689, 873. 95	
Commissions payable and accrued-----	51, 336. 20	
Accounts payable, accrued expenses, etc-----	48, 641. 36	789, 851. 51

Liability for securities sold but not yet purchased (see note 3)-----		148, 459. 39
---	--	--------------

Liability for 89,404 shares of common stock of The Equity Corporation (borrowed from Group Assets, Inc., per contra) delivered in part consideration for 90,125 shares of the capital stock of Group Assets, Inc. (approximately 68% of the total outstanding stock) (see note 2)-----		167, 628. 90
--	--	--------------

Due to Subsidiary Companies:

North American Distributors Group, Ltd.—note payable-----	\$4, 500. 00	
Allied-Distributors, Inc.—current account-----	136, 098. 65	

Due to Subsidiary Companies—Continued.

Group Assets, Inc. (for which 2,000 shares of \$6.00 preferred stock of Distributors Group, Inc., were pledged as collateral)-----	\$33,529.53		
Miscellaneous -----	1,417.52		
		34,947.05	
			175,545.70
Reserve for Federal taxes-----			13,000.00
Capital stock:			
\$6 preferred stock—2,000 shares, par value \$5 per share, authorized, issued and repurchased (pledged as collateral to amount owing Group Assets, Inc., subsidiary company) (see note 2)-----			
Common Stock—par value 10 cents per share authorized and issued, 320,000 shares-----	\$32,000.00		
			32,000.00
Capital surplus—net (see annexed statement)-----			313,213.03
Earned surplus (deficit)-----			135,669.20
			2,694,226.62

The accompanying notes to Financial Statements are an integral part of the above balance sheet and should be read in conjunction therewith.

DISTRIBUTORS GROUP, INC.

Notes to Financial Statements at December 31, 1935

(1) Distributors Group, Incorporated, follows the practice of adjusting monthly its investments in wholly owned subsidiaries to the underlying book values thereof and the results of operations of such subsidiaries are reflected in the income account of Distributors Group, Incorporated.

(2) The investment in the capital stock of Group Assets, Incorporated, is stated at cost. On December 23, 1935, Distributors Group, Incorporated, acquired approximately 68% of the total outstanding capital stock of Group Assets, Incorporated, for \$392,124.18 and 89,404 shares of common stock of The Equity Corporation (valued at \$167,628.90, the market at the close of business December 21, 1935). Distributors Group, Incorporated, is contingently liable to pay an additional \$12,500.00 in connection with this transaction. Under the terms of an "Agreement of Merger," dated December 23, 1935, effective January 27, 1936, Group Assets, Incorporated, was merged with Distributors Group, Incorporated. This agreement provided, among other things, for the cancellation of the \$6.00 preferred stock of Distributors Group, Incorporated, and the issuance of one share of new 25¢ preferred stock (subject to redemption at \$5.50 a share and upon dissolution or liquidation at \$5.00 per share, and accumulated unpaid dividends, if any) in exchange for each share of capital stock of Group Assets, Incorporated, held by minority interests (41,385 shares). On the basis of valuing the securities owned by Group Assets, Incorporated, at quoted market values at December 31, 1935, the equity of Distributors Group, Incorporated, in the net assets of Group Assets, Incorporated, at that date, subject to the adequacy of the reserve for contingent liabilities, was in excess of the cost of its investment in Group Assets, Incorporated.

(3) The market value of securities was determined on the basis of published quotations where available, and where published quotations were not available, on the basis of prices furnished by the company's trading department.

(4) The company's records indicated commitments in the ordinary course of business for the purchase of \$240,794.81 and the sale of \$228,965.43 of securities. These commitments represent the transactions of December 31, 1935, which were entered on the books of the company on January 2, 1936, in accordance with the company's usual practice.

(5) Under a Fiscal Agency Agreement expiring October 6, 1938 (automatically renewable for successive five-year periods, subject to certain rights of both parties to terminate such agreement) Distributors Group, Incorporated, receives income from and is obligated to pay certain expenses of Foreign Bond Associates, Inc. During the year ended December 31, 1935, income received and expenses paid under the terms of the Agreement amounted to \$4,255.41 and to approximately \$24,000.00, respectively.

(6) Distributors Group, Incorporated, has an obligation under a syndicate agreement to advance an amount up to \$10,000.00, upon demand, to be used by the syndicate for the purchase of certain stock.

(7) At December 31, 1935, Distributors Group, Incorporated, had outstanding "when issued" contracts to purchase securities for an aggregate cost of \$34,767.25, and to sell these same securities for \$34,913.10.

APPENDIX N

List of Attorneys for Certain Fixed Investment Trusts

The following is a list of attorneys who drafted trust agreements for the fixed trusts for which replies to the Commission's questionnaire were filed.

For a discussion of association or connection of attorneys with fixed trusts see Chapter VI of this report, The Trust Agreement, p. 96.

This material was taken from the replies to the Commission's questionnaire for the trusts named.

Names and addresses of attorneys who drafted trust indentures for fixed trusts filing questionnaires

Name of sponsor and trust	Name of attorney	Address
AMERICAN TRUSTEE SHARES CORPORATION		
Diversified Trustee Shares:		
Original Series	Not known	
Series B	Hornblower, Miller & Garrison	New York City.
Series C	do	Do.
Series D	Davis, Polk, Wardwell, Gardiner & Reed.	Do.
CALVIN BULLOCK		
U. S. Electric Light & Power Shares, Inc.:		
Trust Certificates, Series A	Hedges, Wilson & Rogers	Denver, Colo.
Trust Certificates, Series B	Sullivan & Cromwell	New York City.
Nation-Wide Securities Co.:		
Trust Certificates, Series A	Hodges, Wilson & Rogers	Denver, Colo.
Trust Certificates, Series B	Sullivan & Cromwell	New York City.
AMERICAN DEPOSITOR CORPORATION		
Fixed Trust Shares	Root, Clark, Buckner & Ballentine	Do.
Fixed Trust Shares, Series B	do	Do.
Basic Industry Shares	do	Do.
Corporate Trust Shares:		
Original Series	do	Do.
Series AA	do	Do.
Series AA, modified	do	Do.
Accumulative Series	do	Do.
Accumulative Series, modified	do	Do.
5-year Fixed Trust Shares	do	Do.
BANK AND INSURANCE SHARES, INC. (TRANSCONTINENT SHARES CORPORATION)		
Deposited Bank Shares N. Y., Series A	Montgomery & McCracken	Philadelphia, Pa.
Deposited Insurance Shares, Series A	do	Do.
Deposited Bank Shares:		
Series N. Y.	Roberts & Montgomery	Do.
Series B-1	do	Do.

Names and addresses of attorneys who drafted trust indentures for fixed trusts filing questionnaires—Continued

Name of sponsor and trust	Name of attorney	Address
DISTRIBUTORS GROUP, INCORPORATED		
Cumulative Trust Shares.....	Hughes, Schurman & Dwight.....	New York City.
North American Bond Trust.....	do.....	Do.
North American Trust Shares:		
1953.....	do.....	Do.
1955.....	do.....	Do.
1956.....	do.....	Do.
1958.....	do.....	Do.
SUPER-CORPORATIONS OF AMERICA DEPOSITORS, INC.		
Super-Corporations of America Trust Shares:		
Series A.....	Rushmore, Bisbee & Stern; N. R. Jones.	Do.
Series B.....	do.....	Do.
Series C.....	do.....	Do.
Series D.....	do.....	Do.
Series AA.....	Rushmore, Bisbee & Stern.....	Do.
Series BB.....	do.....	Do.
MISCELLANEOUS SPONSORSHIP		
Associated Standard Oilstocks Shares....	Roosevelt & O'Connor.....	Do.
Fundamental Trust Shares, Series A.....	Breed, Abbott & Morgan.....	Do.
	Carey, Armstrong, Weadock & Essery.	Detroit.
Fundamental Trust Shares, Series B.....	Breed, Abbott & Morgan.....	New York City.
	Carey, Armstrong, Weadock & Essery.	Detroit.
Collateral Equities Trust Shares.....	Thomas H. Moore.....	Columbus, Ohio.
Trusteed American Bank Shares, Series B.	Walschied & Rosenkranz.....	Jersey City, N. J.
Trust Shares of America.....	Larkin, Rathbone & Perry; Hughes, Schurman & Dwight.	New York City.
United Insurance Trust Shares.....	Not known.....	
United New York Bank Trust Shares.....	do.....	
Equity Trust Shares in America.....	Carter, Jones & Tierney.....	St. Louis, Mo.
Trusteed Industry Shares.....	Walschied & Rosenkranz.....	Jersey City, N. J.
New York Bank Trust Shares.....	Davis, Polk, Wardwell, Gardiner & Reed; Cotton, Franklin, Wright & Gordon.	New York City.
Public Service Trust Shares.....	Mumma & Costabell.....	Do.
Foundation Trust Shares, Series A.....	Putney, Twombly & Hall; Franchot & Warren.	Do.
Independence Trust Shares.....	Roberts & Montgomery.....	Philadelphia, Pa.
National Trust Shares.....	Root, Clark, Buckner & Ballantine....	New York City.
Combined Trust Shares (of Standard Oil Group).	Morgan, Lewis & Bockius.....	Philadelphia, Pa.
Trusteed New York Bank Shares.....	Cravath, deGersdorf, Swaine & Wood.	New York City.
Representative Trust Shares.....	Beckman, Bogue & Clark.....	Do.
Investors Trustee Shares, Series A.....	Hornblower, Miller & Garrison.....	Do.
Selected Cumulative Shares.....	Peppenhuisen, Johnston, Thompson & Cole.	Chicago, Ill.
Low Priced Shares.....	Beckman, Bogue & Clark.....	New York City.

APPENDIX O

Analysis of Portfolios of Fixed Investment Trusts

This appendix contains a general survey of the type and number of issues in the portfolios of 214 fixed investment trusts, and also a detailed analysis of the portfolios of 49 fixed trusts, each of which had total assets of \$500,000 or more at some time within the period 1927 to 1935 and which filed replies to questionnaires.¹ There were only 4 trusts in this latter group at the end of 1927, 27 at the end of 1930, and 48 at the end of 1935. The value of the portfolios of these trusts at the year-ends 1927, 1930, and 1935 was \$18,000,000, \$248,000,000, and \$157,000,000. The year end 1935 is the last for which detailed data are available and so the period studied covers the years from 1927 to 1935.

1. INTRODUCTION

The basic difference between the fixed trusts and the management investment companies is, of course, that comparatively few changes were made in the investments of the fixed trusts. However, even in the most rigid type of fixed trust, changes in portfolio securities were directed or required in the event of certain contingencies such as consolidation, merger, reorganizations or dissolution of a portfolio company.² Most of the 49 fixed trusts studied were more flexible than this type and either permitted or required changes in the portfolio for other reasons. Provisions for the eliminations of securities were common, but few of the trusts allowed substitutions. In some cases the elimination of a security was compulsory if certain specified events occurred, such as the passing of a dividend for a stated period of time or the unavailability of such security for purchase by the trust. In other cases the power of deciding upon eliminations was vested in the depositor, and could be exercised in the event of certain contingencies. Sometimes the concurrence of an independent investment counsel was required. In a few cases the provisions for eliminations allowed extreme latitude to the depositor.³ For two trusts included

¹ This discussion is taken from the Report on Investment Trusts and Investment Companies, Pt. Two, Ch. VIII, Sec. V, at 606 (House Doc. No. 70, 76th Cong.). The number of fixed trusts included in this analysis differs from the number in the Report on Investment Trusts and Investment Companies, Ch. II, because of the exclusion of several trusts (in one trust the remaining assets consisted only of cash) and also because the two modified series of Corporate Trust Shares were counted as separate trusts in this section whereas they were included with the original series as constituting single trusts in Ch. II of that part of the report.

² For further discussion of the difference between management investment companies and fixed trusts, and between various types of fixed trusts, see Ch. II, Origin and Nature of Fixed Investment Trusts, p. 7, *supra*, this report and Report on Investment Trusts and Investment Companies, Pt. One, Ch. II, Sec. III at 29 (House Doc. No. 707, 75th Cong.).

³ One provision reads that "In the event that (a) the Depositor shall in its sole discretion judge it to be impractical to purchase a sufficient amount of the stock of any Company to deposit as a part of additional Trust Units hereunder, or * * * shall in its sole

in the study wide powers of substitution were permitted, and the number of changes made in their investments approximated the number made in the portfolios of many open-end management investment companies.⁴

Of the 49 fixed trusts studied, the portfolio units of all but two were restricted to common stocks. United States Electric Light and Power Shares, Inc., Trust Certificates, Series A, included both common and preferred stocks in its portfolio.⁵ Virtually all the portfolio stock investments were in domestic stocks, with a few having some Canadian investments, principally in the stock of the Canadian Pacific Railway Company.

2. DIVERSIFICATION OF INVESTMENTS IN INDIVIDUAL FIXED TRUSTS

a. Number of Portfolio Issues

The original portfolios of a group of 191 fixed trusts analyzed contained an average of 33 issues (Table O-1).⁶ This number is far below the number of issues in the average management investment company portfolio, which ranged around 70. The open-end companies had an average of around 50.⁷

The fixed trusts that were restricted in their investments to securities of companies in a single industry had a much smaller average number of portfolio issues than did those trusts investing in several different industries, a situation similar to that observed for the investment companies proper. Only 7 of these fixed trusts specialized in utility or rail stocks and the number of issues in their portfolios ranged from 25 to 78, with an average of 44. The 57 other specialized trusts, however, had an average of only 19 portfolio issues each, so that the average for the entire group of specialized trusts was 22 issues. The 127 general fixed trusts, on the other hand, had an average of 38 portfolio issues.

Most of the fixed trusts in Table O-1 had 40 or fewer stocks in their original portfolios (162 or 85% of the total number). Among the general fixed trusts, only 12 or less than 10%, invested in 20 or fewer stocks, while of the specialized fixed trusts 34, or 53%, had 20 or fewer stocks.

The number of portfolio issues underlying the fixed trusts may be expected to vary in accordance with the provisions for eliminations and substitutions. To ascertain the changes which actually

discretion judge that the stock of any Company has become or is about to become impaired in value then the Depositor may direct the Trustee to sell such stock." Reply to the Commission's questionnaire for Diversified Trustee Shares, Series D, Item 18, Exhibit A, Art. IV, Sec. 3, (a) (b). See Ch. VIII, Eliminations and Substitutions, *supra*.

⁴ These trusts were Collateral Equities Trust Shares and Trusteed Industry Shares.

⁵ North American Bond Trust, which filed a fixed trust questionnaire, invested only in bonds.

⁶ Of these 191 fixed trusts, 35, or over 18%, had exactly 30 issues each. A total of 23 trusts specializing in bonds or preferred stocks were excluded from these averages; these trusts held a larger average number of issues than did those not so specializing, one trust restricted to bonds having 200 different issues in its original portfolio list. A complete classification of all 214 trusts according to the field of specialization will be found in Table O-5, p. 395, *infra*.

⁷ Report on Investment Trusts and Investment Companies, Pt. Two, Ch. VIII, Table 164 at 546 (House Doc. No. 70, 76th Cong.).

occurred during the period, an analysis was made of 45 of the 49 large trusts on which this section is largely based.⁸

TABLE O-1.—191 fixed trusts, classified by number of issues in the original portfolio

Number of portfolio issues	All trusts	General trusts	Specialized trusts		
			Utility or rail	Other	All
121-130.....	1	1			
111-120.....					
101-110.....					
91-100.....	6	6			
81-90.....					
71-80.....	7	6	1		1
61-70.....	1		1		1
51-60.....	4	4			
41-50.....	10	9	1		1
31-40.....	40	35	1	4	5
21-30.....	76	54	3	19	22
11-20.....	32	8		24	24
1-10.....	14	4		10	10
Total number of trusts.....	191	127	7	57	64
Average number of portfolio issues.....	32.5	38.0	44.0	19.0	21.7

Changes in the portfolio list resulting from consolidations, mergers, dissolutions of portfolio companies, and special dividends received in the form of other stocks were not considered as constituting portfolio changes.⁹

There was an average of 31 issues in the original portfolios of these 45 trusts. By the end of 1935, exclusive of changes due to these mergers, dissolutions, or special dividends, the average number was 28 issues. Of the 45 trusts, 20 showed no changes in portfolio securities. In the other 25, a total of 150 eliminations, or an average of 6 eliminations per trust, occurred by December 31, 1935, representing 19% of the original number of issues in those 25 trusts.¹⁰ There were 13 trusts in which one-fifth or more of the original issues were eliminated, and in an additional 7 trusts more than one-tenth of the original number of issues were eliminated. In all 45 trusts, the total number of issues eliminated represented 11% of the total number originally in the portfolios.

⁸ In addition to the North American Bond Trust and Diversified Trustee Shares, Original Series (the latter liquidated in 1933), two other trusts were excluded, since they resembled, in the frequency of their portfolio changes, the management investment companies more than they resembled the other fixed trusts studied. These two were Collateral Equities Trust Shares and Trusteed Industry Shares.

⁹ The changes resulting from these factors were of relatively minor importance, accounting in all for 60 additions and 36 reductions in the number of issues in all portfolios. They either were of little significance (as in the cases resulting from special dividends received in the form of other stocks) or else could be considered as not changing materially the diversification previously existent.

¹⁰ In addition, 6 substitutions were made in the portfolio of one trust.

Since these eliminations were effected without other issues being substituted, except for one trust, a significant decline in diversification of the portfolio of these fixed trusts during the period is indicated. A list of the stocks eliminated from 2 or more of the 45 trusts is given in Table O-2, which shows also that most of the eliminations occurred in 1932 and 1933.¹¹ The common stocks of the New York Central Railroad and Westinghouse Electric and Manufacturing Company were each eliminated from a total of 9 trusts. Following these stocks in order of frequency of their elimination were the stocks of the Atchison, Topeka, and Santa Fe Railway Company, United States Steel Corporation, and Electric Bond and Share Company.

TABLE O-2.—*Stocks eliminated from 45 fixed and semifixed investment trusts from the origin of the trusts to Dec. 31, 1935^a*

Stocks (in order of frequency of elimination)	Number of trusts from which stocks were eliminated								
	1928	1929	1930	1931	1932	1933	1934	1935	Period, 1928-35
Stocks eliminated in more than one trust.....									
New York Central.....					7	2			9
Westinghouse Electric and Manufacturing.....				1	4		4		9
Atchison, Topeka & Santa Fe.....					2	6			8
United States Steel.....					2	6			8
Electric Bond & Share.....				1	2		4		7
American Radiator & Standard Sanitary.....					1	4			5
Southern Pacific.....					4	1			5
Drug, Inc. ^b						4			4
Pennsylvania Railroad.....					2	2			4
American Power & Light.....						2		1	3
American Smelting & Refining.....						3			3
Illinois Central.....				1	2				3
Louisville & Nashville.....				1	1	1			3
Paramount Publix.....					1	1		1	3
Title Guarantee & Trust.....							2	1	3
Anglo-American Oil.....			2						2
Brooklyn Trust.....							1	1	2
Columbia Gas & Electric.....								2	2
Empire Trust.....							1	1	2
Illinois Pipe Line.....			2						2
International Telephone & Telegraph.....						2			2
U. S. Fidelity & Guaranty.....						1		1	2
Western Union Telegraph.....					1	1			2
Subtotal.....			4	4	29	36	12	8	93
Number of stocks eliminated by only one trust.....	4	1	8	6	4	12	3	19	57
Total eliminations.....	4	1	12	10	33	48	15	27	150

^a Excluded from this table are 3 trusts which, because of the numerous changes in the list of stocks comprising the portfolio, resembled management investment companies more than other trusts classified above. These were Collateral Equities Trust Shares, North American Bond Trust, and Trusteed Industry Shares. One trust, Diversified Trustee Shares, Original Series, is also excluded because there were no underlying portfolio securities after 1933.

^b Drug, Inc. was dissolved in 1933, and stock in the constituent companies was distributed to the stockholders. Altogether there were 9 trusts in which Drug, Inc. stock was held, but only 4 did not retain any of the distributed stock.

¹¹ The relatively large number of issues eliminated in 1935 was the result of the elimination of a number of bank and insurance stocks from a few trusts specializing in these securities.

b. Concentration of the Portfolios in Individual Issues

The individual investments in the fixed-trust portfolios were more nearly equal to each other in market value than were the portfolio investments of the management investment companies. In the fixed-trust portfolios as originally established this similarity reflected the principle of "balanced diversification," according to which it was planned in the case of some trusts to have an equal amount of money invested in each stock. The varying price movements of the different portfolio stocks over the period, however, resulted in a more uneven distribution of the total market value among the individual issues, so that at the end of the period the portfolios were more concentrated in particular issues than they were originally.

At the end of the first year following the organization of the respective trusts¹² there were 14 of the 49 trusts, or 29% of the total number, in which the largest issue made up over 10% of the aggregate value of the portfolio, while at the end of 1935 there were 28 such trusts, or 58% of the 48 then included (Table O-3).¹³ The largest single portfolio issue in the average fixed-trust portfolio at the initial year-end after organization represented slightly less than 9% of the total value of the portfolio. By the end of 1935 the average proportion represented by the largest portfolio issue was over 11%. The average percentage of the total portfolio value represented by the largest single issue was, as might be expected, much larger for the group of specialized trusts than for the general trusts (Table O-4).

TABLE O-3.—49 fixed and semifixed investment trusts, classified by the percent of market value of each portfolio represented by the largest issue (original year-end ^a and end of 1935)

Percent of market value of portfolio in largest issue	Number of trusts		Percent of total number of trusts	
	Original year-end ^a	End of 1935 ^b	Original year-end ^a	End of 1935 ^b
Greater than 25.0.....				
Greater than 20.0.....	1	2	2.0	4.2
Greater than 15.0.....	4	7	8.2	14.6
Greater than 10.0.....	14	28	28.6	58.3
Greater than 7.5.....	24	40	49.0	83.3
Greater than 5.0.....	45	47	91.8	97.9
Greater than 2.5.....	48	47	98.0	97.9
Greater than 0.0.....	49	48	100.0	100.0

^a If the year-end following organization was prior to 1927, the year-end 1927 was used; this was the case in only 2 trusts.

^b 1 trust included in the 49 for the original year-end was in liquidation in 1935.

When the portfolio investments of these fixed trusts are listed in order of decreasing market value it is seen that an average of about 33% of the total number of issues in each portfolio was required to aggregate 50% of the total market value of the portfolio at the initial year-end of the trust (Table O-4). At the end of 1935 relatively

¹² For 2 trusts organized before 1927, the 1927 year-end was used.

¹³ One trust, as previously noted, was practically liquidated in 1933.

fewer issues, an average of only 28% of the number of all issues, were required to aggregate 50% of the market value. The specialized fixed-trust portfolios were somewhat more evenly distributed than were the portfolios of the general fixed trusts.

TABLE O-4.—*Concentration of market value of 49 fixed and semifixed investment trust portfolios in the largest issues of each portfolio (original year-end and end of 1935)*

Item	Original year-end ^a	End of 1935 ^b
1. Average percent of market value in largest issue:		
a. General trusts.....	7.9	10.2
b. Specialized trusts.....	11.7	14.4
c. All trusts.....	8.8	11.2
2. Average percent of market value in 5 largest issues:		
a. General trusts.....	30.6	39.3
b. Specialized trusts.....	37.1	49.9
c. All trusts.....	32.2	41.8
3. Average percent of number of issues necessary to aggregate 50 percent of the market value:		
a. General trusts.....	32.0	27.1
b. Specialized trusts.....	35.7	32.1
c. All trusts.....	32.9	28.3

^a If the year-end following organization was prior to 1927, the year-end 1927 was used; this was the case in only 2 trusts.

^b 1 trust included in the 49 for the original year-end was in liquidation in 1935.

The concentration of the portfolios of the individual fixed trusts in single issues may be compared with the concentration observed in the management investment company portfolios.¹⁴ At the end of 1935 the largest single issue in the average portfolio of all management investment companies represented 10% of the total portfolio value, as compared with 11% in the case of fixed trusts. The general management investment companies showed an average of somewhat over 8%, as compared with 10% for the general fixed trusts. The specialized management investment companies, however, with an average of 19% in the largest issue, showed a greater concentration than the specialized fixed trusts, with an average of 14%.¹⁵

A comparison of the portfolios of the general open-end management companies and those of the fixed trusts, which resemble each other in that both types of organizations are generally required to redeem their own shares on demand, indicates that at the end of 1935 the general open-end management companies invested in an average of 53 issues, while the general fixed trusts had an average of only about 28 portfolio issues. The largest single issue in the average portfolio of the open-end companies represented somewhat over 5% of the total value of the portfolio, while in the case of the general fixed trusts the average was about 10%. The total market value was also somewhat more evenly distributed at the end of 1935 among the different issues in the open-end company portfolios. About 31% of all issues

¹⁴ The measure of the extent to which the market value of the total portfolio was distributed among the individual issues shows differences similar to those stated above.

¹⁵ Report on Investment Trusts and Investment Companies, Pt. Two, Ch. VIII, Table 166 at 549 (House Doc. No. 79, 76th Cong.).

in the average portfolio of the open-end companies were required to aggregate 50% of the total market value, while in the group of general fixed trusts an average of only 27% of all the issues sufficed.

2. CLASSIFICATION OF THE PORTFOLIOS OF LARGE FIXED TRUSTS BY INDUSTRY

a. All Large Fixed Trusts

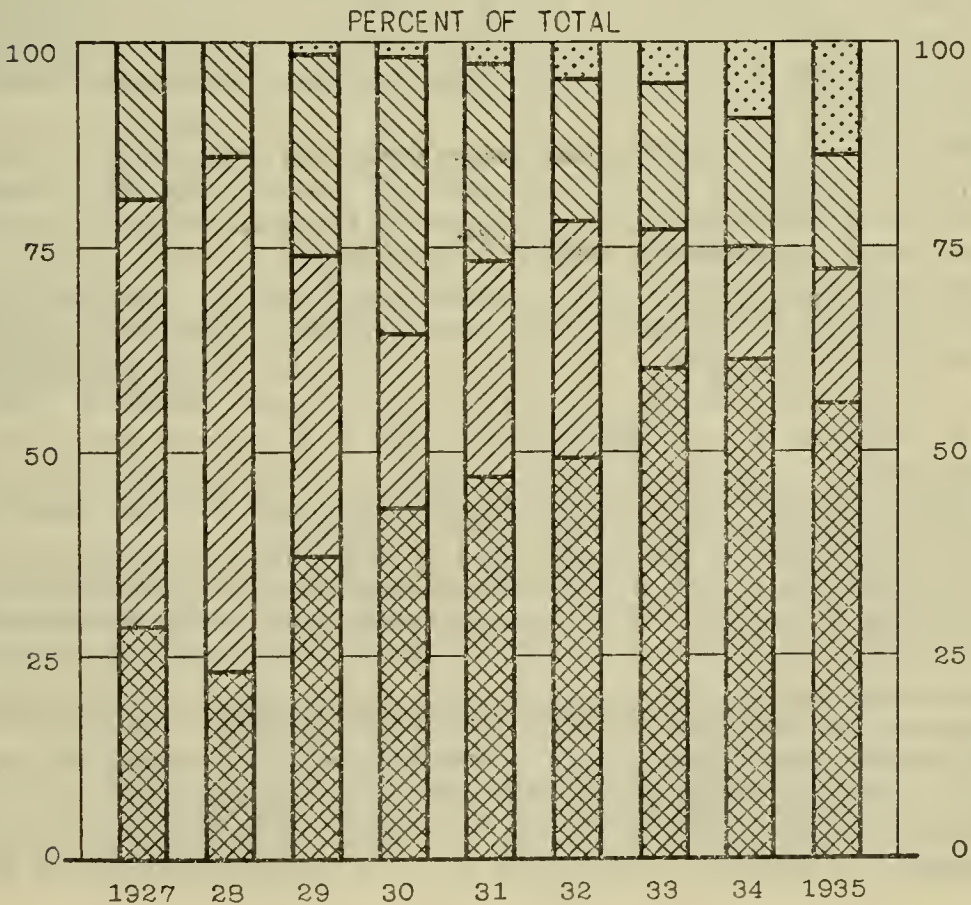
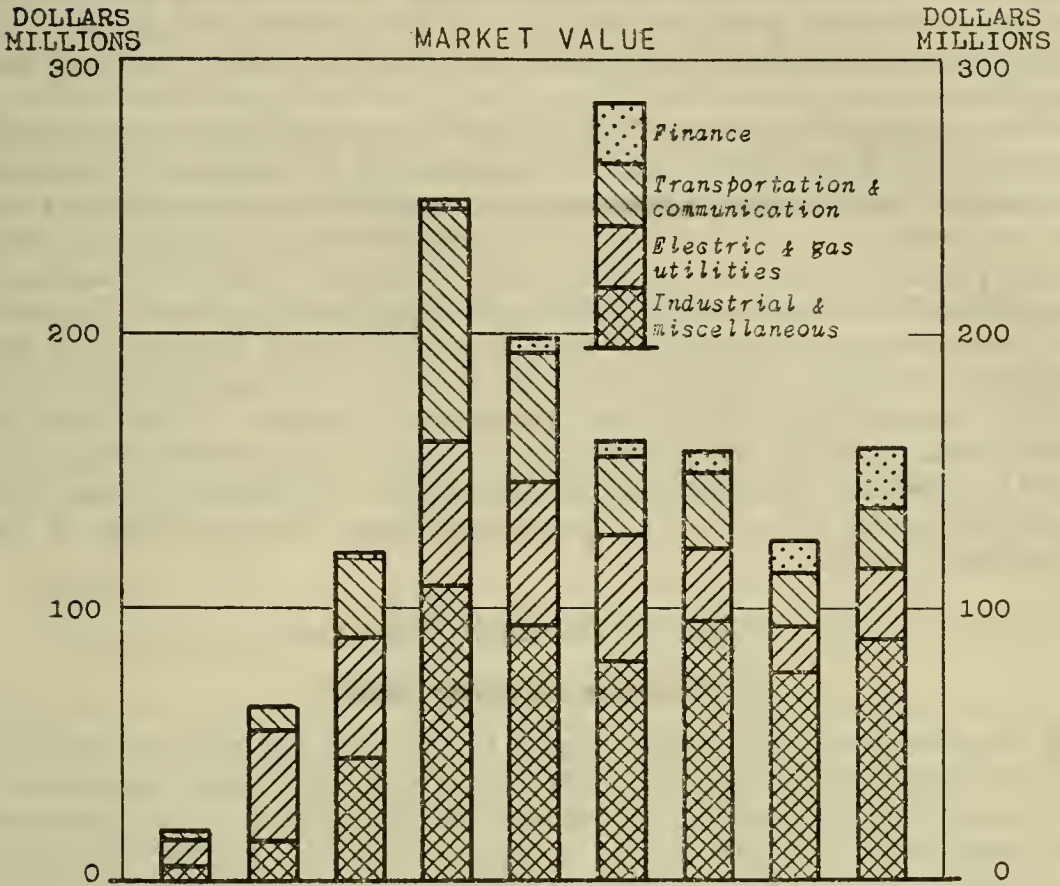
The composition of the combined portfolio of all large fixed trusts studied varied from year to year as the result of the following factors: (1) the formation each year of additional trusts; (2) the dissimilarity in the rate of change in the amount of funds available for investment in the several trusts, as the result of varying rates of sales and redemptions of trust shares; (3) the elimination of issues from certain portfolios; and (4) the dissimilarity in the price behavior of the various portfolio securities. Although the separate influences of these factors have not been isolated, the industrial classification of the portfolios is important in that it shows the extent to which fixed trusts as a whole had investments in the various industries.

Investments in utility securities were relatively largest at the end of 1927 and 1928, ranging from 52% of the combined portfolio at the end of 1927 to 63% at the end of 1928; at the end of 1935 the proportion of such investments was over 16%. Investments in securities of industrial companies ranged from 23% of the combined portfolio, at market, at the end of 1928 to 61% at the end of 1934, and amounted to 56% at the end of 1935. The value of chemical securities alone amounted at the end of 1935 to over 14% of the value of all investments, compared with a value of 4% at the end of 1928 and 1929. Investments in the field of finance amounted to 14% at the end of 1935, while at the end of 1927 and 1928 there were no such investments in the portfolios of the large fixed trusts studied. Contrasted to the increase over the period in the proportion of investments in financial and industrial companies was the decline in the field of transportation and communication, which amounted to 20% at the end of 1927, 34% at the end of 1930, and 14% at the end of 1935.¹⁶

A comparison of the industrial composition of the combined portfolio of the fixed trusts with that of the management investment companies proper, exclusive of those companies in the Atlas Corporation and The Equity Corporation groups, discloses several notable differences, particularly with respect to investments in banks and other financial companies (excluding investment companies). From 1927 to 1932 such investments ranged from 10% to 14% of the total portfolio of the management companies proper, but the fixed trusts held only very small amounts of such investments and none in 1927 and 1928. Practically all of such investments, moreover, were in the portfolios of those fixed trusts specializing in either bank or insurance stocks, while the investments in such securities by the management investment companies proper were not limited to the portfolios of specialized companies. After 1933, those fixed trusts specializing in banks and insurance stocks grew rapidly, whereas the other trusts for

¹⁶ The relative changes over the period are evident also on the basis of the relative number of shares in the different industries; see Table O-11, p. 406, *infra*, at the end of this appendix.

CHART O-I
 PORTFOLIO INVESTMENTS OF A GROUP OF
 LARGE FIXED AND SEMI-FIXED INVESTMENT TRUSTS ^{1/},
 CLASSIFIED BY INDUSTRY
 1927 - 1935



the most part were declining.¹⁷ As a result, investments in banks and insurance securities rose from less than 5% of the combined fixed trust portfolios at the end of 1932 to 14% at the end of 1935, while the proportion of such investments in the combined portfolios of management investment companies proper at the latter year-end was only 6½%.

Automobile and metal mining shares were a negligible factor in the portfolios of fixed trusts, while management investment companies proper had substantial investments in such shares, especially from 1933 to 1936. The fixed trusts also differed from management companies proper in that these trusts rarely invested in other investment companies.¹⁸ Investments in utility, food, railroad, tobacco, chemical, and communication companies were relatively more important in the combined portfolio of the fixed trusts than in the combined portfolio of the management investment companies proper. While foreign investments were for the earlier years of some importance in the combined portfolio of the management investment companies proper, they were practically absent at all year-ends from the portfolios of the large fixed trusts.

b. General and Specialized Fixed Trusts

(1) SPECIALIZED FIXED TRUSTS

As has been indicated, many fixed trusts were formed for the purpose of investing solely in some particular industry; some were formed to invest solely in bonds or preferred stocks, while a very few trusts restricted their investments to a single locality. Of the 214 fixed trusts of varying size which were analyzed, 61, or 29% of the total, were restricted to investments in a single industry; 23 trusts limited their investments either to bonds or preferred stocks;¹⁹ and 3 trusts limited their investments to securities of companies located in certain localities (Table O-5).²⁰

There were 24 fixed trusts which specialized in bank stocks, while 13 trusts were restricted to oil stocks and 12 trusts to insurance stocks. There were 20 trusts which were organized to invest solely in bonds, 9 of these being organized in 1932.²¹

Among the 49 large fixed trusts studied in detail, 12 were specialized trusts, including one organized to invest in bonds. (See Table O-12 at the end of this appendix.) In the years 1927-1929 United States Electric Light & Power Shares, Inc., Trust Certificates, Series A, specializing in utilities, was of predominant size in the entire group of all

¹⁷ Two fixed trusts principally accounted for this development, Deposited Bank Shares, N. Y., Series A, and Deposited Insurance Shares, Series A.

¹⁸ Some fixed trusts held the common stock of The United Corporation which was classified for the purposes of this study as an investment-holding company. The aggregate investment in the stock of this company, because of its relative unimportance in the combined portfolio, has been classified with utility investments in Table O-10, p. 405, *infra*.

¹⁹ Most of these trusts were sponsored by Keystone Custodian Fund, Inc., which, although not fixed trusts, filed fixed trust questionnaires with the Commission.

²⁰ This number is exclusive of a few trusts investing in stocks of banks in particular cities; these have been classified as trusts specializing in bank stocks.

²¹ With the exception of the organization of these bond trusts in 1932, there does not seem to be any significant relation between the year of organization and the field of specialization.

large fixed trusts included, and as a consequence the aggregate value of specialized trust portfolios amounted in those years from about one-third to over one-half the total value of the combined portfolios of all large fixed trusts. With the formation of additional trusts, however, the relative importance of the large fixed trusts specializing in utility securities declined, their portfolios constituting under 16% of the total value of the portfolios of all 27 trusts at the end of 1930 and only 8% at the end of 1933. In 1934 and 1935 the trusts specializing in stocks of banks and insurance companies bulked larger than did the trusts specializing in utilities.

TABLE O-5.—214 fixed and semifixed investment trusts, classified by type of trust and date of trust agreement

Type of trust	Date of trust agreement									
	1927 and prior	1928	1929	1930	1931	1932	1933	1934	1935	Total
General trusts.....	14 ^a	6	7	51	24	9	8	3	5	127
SPECIALIZED TRUSTS										
Utility stocks.....	1			3	1					5
Oil stocks.....	1 ^b	1	4	7						13
Bank stocks ^c	5	2	4	8	2	2	1			24
Insurance stocks.....			2	5	2	1			2	12
Railroad stocks.....			2							2
Food and tobacco stocks.....				1				1		2
Automotive stocks.....		1								1
Investment company stocks ^d				1	1					2
Local stocks.....	1 ^e			2						3
Bonds.....	2 ^f				3	9	2		4	20
Preferred stocks.....								1	2	3
Total, specialized trusts.....	10	4	12	27	9	12	3	2	8	87
Grand total, all trusts.....	24	10	19	78	33	21	11	5	13	214

^a Two trusts were originated in 1925 and two in 1924.

^b Originated in 1925.

^c Excluded is one trust, Bank Stock Trust Shares, Series A, for which no shares were sold.

^d Excluded are 9 trusts organized by Massachusetts Distributors, Inc., to hold shares of Massachusetts Investors Trust.

^e Originated in 1924.

^f One trust originated in 1925.

(2) GENERAL FIXED TRUSTS

The industrial composition of the combined portfolios of the general fixed trusts was, of course, substantially different from that observed in the combined portfolios of all trusts, in which both general and specialized trusts were included. Since both utility investments and investments in bank and insurance stocks were found in substantial amounts in the portfolios of the specialized trusts, the proportion of the aggregate investments in these fields in the case of the general trusts was lower than the proportion indicated for the combined portfolio of all trusts. In the combined portfolio of all trusts it was seen that utility investments amounted to 21% on all investments, at market, at the end of 1930 and to 17% at the end of 1935. In the portfolios of the general trusts, however, the proportion invested in utilities at

each of these two year-ends was 7% and 10%, respectively. Investments in bank and insurance stocks in the portfolios of the general trusts at the end of 1935 amounted to only 1% of all investments, in contrast to the proportion of 14% shown for the combined portfolio of all trusts.

A comparison of the industrial composition of the combined portfolio of general fixed trusts (see Table O-13 at the end of this appendix) with that of the general diversified management investment companies proper ²² indicates that investments in the fields of metal mining, automobiles, finance, and foreign issues were much less important in the general trusts, and that investments in utilities were also relatively less important at every year end during the period 1929-1935 except 1933. However, certain industries—railroads, communication, foods and tobacco, and chemicals—were relatively more important in the portfolio of general fixed trusts than in that of the general diversified investment companies proper. The proportion of rail investments in the general fixed trusts was very high from 1929 to 1931, being almost double that existent in the portfolio of the diversified “proper” companies.

c. Variations in Portfolios of Trusts of Different Sponsorship Groups

In many cases several fixed trusts were organized by the same sponsor, and in most instances the portfolio investments of these trusts were very similar. Massachusetts Distributors, Inc., became the sponsor of four large general fixed trusts (one was in liquidation after 1932); Maryland Sponsors, Inc., sponsored nine general trusts, and Lord, Abbett & Company, Inc., became the sponsor of six general trusts. Of the six large fixed trusts sponsored by Distributors Group, Incorporated, five were of the general type and the other was restricted to bonds, mostly of utility companies. Of the four trusts sponsored by Calvin Bullock, two were general trusts and two specialized in utility stocks. Bank and Insurance Shares, Inc. (subsequently changed to Transcontinent Shares Corporation), sponsored four large trusts in this period, three specializing in bank stocks and the other being restricted to insurance stocks.²³

The group of “other sponsors” contains 16 trusts, of which 11 were general trusts, while 3 specialized in bank stocks and 2 in oil stocks.

At the end of 1935, in the entire group of 48 large fixed trusts studied at that year end, 36 were general trusts. The differences in industrial composition among the portfolios of the general trusts in the various sponsorship groups are shown in Table O-6. In every sponsorship group except one, the value of investments in chemicals was larger than that in any other industry, ranging from 18% to over 26% of the total portfolio in each group except one. In the Calvin Bullock Group, investments in chemical companies made up less than 6% of the total portfolio, while utility securities constituted

²² See Report on Investment Trusts and Investment Companies, Pt. Two, Ch. VIII, Table 211 at 656 (House Doc. No. 70, 76th Cong.).

²³ This sponsorship classification is the same as that used in the Report on Investment Trusts and Investment Companies, Pt. Two, Ch. II, Table 15 at 101 (House Doc. No. 70, 76th Cong.). The various groups are designated by the name of the firm in control at the end of 1935, and so the investment policies of the several groups cannot be attributed to those firms which were not the original sponsors.

the most important field of investment, making up 16% of the total value of the combined portfolio.

The general trusts in four of the sponsorship groups, 23 in all, contained no investments in bank or insurance stocks, but in one trust, Nation-Wide Securities Company, Trust Certificates, Series B (one of the trusts in the Calvin Bullock Group), investments in bank and insurance stocks made up over 10% of the portfolio.

Utility investments varied widely in relative importance in the combined portfolios of the trusts in the several sponsorship groups. In the portfolios of the two general trusts in the group sponsored by Calvin Bullock the proportion of utility investments was 16%,²⁴ while in those sponsored by Maryland Sponsors, Inc., the proportion was only 4%, and ranged from 7½% to 13% in the case of the other groups.

TABLE O-6.—*Security investments of a group of general fixed and semifixed investment trusts,^a classified by sponsorship group and by industry, 1935*

[Percent of market value of total portfolio]

	Sponsorship group *						
	Calvin Bullock	Massachusetts Distributors, Inc.	Maryland Sponsors, Inc.	Distributors Group, Inc.	Lord, Abnett & Co., Inc.	Other sponsors	All sponsors
Number of trusts.....	2	3	9	5	6	11	36
INDUSTRY GROUP							
Metal mining.....	3.5	3.7	2.0	0.3	-----	3.5	1.7
Oil.....	7.7	5.0	7.5	6.1	7.2	4.8	6.2
Iron and steel.....	3.3	1.7	2.0	1.5	1.2	2.1	1.8
Machinery.....	4.6	9.6	12.0	10.9	9.7	10.6	10.6
Automobile.....	7.8	2.6	.5	3.0	-----	5.5	2.9
Food and tobacco.....	10.5	11.5	8.9	14.0	15.9	9.8	12.2
Chemical.....	5.7	18.5	20.3	19.2	26.4	19.6	19.2
Building supplies.....	1.4	2.9	2.9	3.4	.5	1.9	2.9
Miscellaneous industrial.....	3.9	8.7	15.2	10.3	12.8	7.1	10.3
Banks and insurance.....	10.1	-----	-----	-----	-----	6.7	.8
Merchandising.....	3.6	5.6	3.2	6.7	6.0	3.7	5.5
Railroads.....	15.9	10.3	11.6	8.0	6.0	9.9	9.3
Communication.....	6.0	6.3	9.7	6.1	6.8	5.8	6.7
Utilities.....	16.0	12.9	4.2	10.2	7.5	9.0	9.7
Foreign ^b	-----	.7	-----	.3	-----	-----	.2
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* The sponsor is the firm or company controlling the trust. See Table 15 of the Report on Investment Trusts, and Investment Companies, Pt. Two, Ch. II (H. Doc. No. 70, 76th Cong.).

^b Excluding Canadian corporate issues.

As for investments in other industries, it may be noted that the proportion of rail investments was highest for those trusts in the Calvin Bullock Group and lowest for those trusts sponsored by Lord, Abnett & Company, Inc. On the other hand, investments in food and tobacco were relatively largest in the portfolios of the trusts sponsored by Lord, Abnett & Company, Inc., and smallest in those trusts sponsored by Maryland Sponsors, Inc. Investment in automobile com-

²⁴ It will be remembered that there were also 2 other large trusts sponsored by Calvin Bullock, each of which was restricted to utility investments.

panies made up a larger proportion of the portfolios of the two Calvin Bullock trusts than of the trusts in any other group.

4. INDIVIDUAL SECURITIES IN THE COMBINED PORTFOLIO OF LARGE FIXED TRUSTS

The stocks in the original portfolios of the large fixed trusts were for the most part high-priced stocks, with the average value per common share in the fixed-trust portfolios ranging from two to one and a half times the average price of stocks listed on the New York Stock Exchange from 1930 to 1935 (Table O-7).²⁵ The decline in the ratio over the period would seem to indicate that the stocks in the fixed-trust portfolios depreciated much more than did the average stock listed on the Exchange. This relatively greater depreciation of fixed-trust portfolio stocks was mainly the result of the fact that their holdings of railroad and food stocks did not appreciate in value in 1933 to the same extent as the average listed stock, and to the fact that their relatively large holdings of utility stocks declined in price in 1933.²⁶

TABLE O-7.—Comparison of the average market value per share of domestic common stocks in the combined portfolio of 48 fixed and semifixed investment trusts with the average price of domestic common stocks listed on the New York Stock Exchange, 1930-35, year-ends

Year-end	Average market value per share in combined portfolio (dollars)	Average price per share listed on New York Stock Exchange ^a (dollars)	Ratio (1) ÷ (2)	Percent change in (1)	Percent change in (2)
	(1)	(2)	(3)	(4)	(5)
1930.....	73.95	35.70	2.07		
1931.....	33.57	18.72	1.79	-54.6	-47.6
1932.....	28.21	16.04	1.76	-16.0	-14.3
1933.....	35.76	24.33	1.47	+26.8	+51.7
1934.....	35.38	24.20	1.46	-1.1	-5
1935.....	49.41	33.47	1.48	+39.7	+38.3
1930-35.....				-33.2	-6.2

^a From the New York Stock Exchange Bulletin; figures for Jan. 1 used for preceding year end.

a. Number and Size of Issues in the Combined Portfolio

The large fixed trusts, as would be expected, concentrated their investments in a smaller number of different issues than did the management investment companies proper. There were only 114 different securities in the combined portfolio of the fixed trusts investing in stocks at the end of 1927; there were 264 different securities in 1930

²⁵ The comparison in Table O-7 is restricted to domestic common stocks listed on the New York Stock Exchange. Practically the same results are secured if the bank and insurance stocks in the fixed-trust portfolios are omitted.

²⁶ The stocks eliminated in the portfolios of these trusts in the years 1932 and 1933 were almost all lower in price than the average (weighted) shown for the remaining stocks; if these had been left in the portfolios, the average value per share would have shown an even greater relative depreciation in 1933.

and 278 at the end of 1935. The increase in the number from 1927 to 1930 may be explained by the increase in the number of trusts from 4 in 1927 to 27 in 1930. In 1931 an additional 11 trusts were included but the number of different issues did not increase.²⁷

A classification of these stock issues according to their aggregate market value in the combined portfolio is given in Table O-14 at the end of this appendix. There was only one issue in which the aggregate investment exceeded \$15,000,000, and that was the common stock of the American Telephone and Telegraph Company, which aggregated \$15,400,000 at the end of 1931, or about 8% of the total value of all stocks in the combined portfolio. At the end of 1935, the largest aggregate investment was in the common stock of E. I. du Pont de Nemours & Company. This amounted to over \$9,400,000 and represented over 6% of the total value of the combined stock portfolio. From 1930 to 1935, about 90% of the total value of the combined stock portfolio was in issues each of which aggregated over \$250,000. The number of such stocks was 94 in 1930, 71 in 1934, and 87 in 1935.

An indication of the concentration of the total value of the combined portfolio in individual issues for different years is given in Table O-8 and Chart O-II. At the end of 1930, 13 issues, or less than 5% of the number of all issues, accounted for 50% of the total market value. At the end of 1935, 17 issues, or about 6% of the total number, made up 50% of the total market value. This slight decrease in concentration may be attributed largely to the growth of those trusts specializing in bank and insurance stocks.

TABLE O-8.—*Number and percentage of different stock issues in the combined portfolio of fixed and semifixed investment trusts making up various percentages of market value,^a 1930-35^b*

Percent of total market value	1930		1931		1932		1933		1934		1935	
	Number of stocks	Percent of total number	Number of stocks	Percent of total number	Number of stocks	Percent of total number	Number of stocks	Percent of total number	Number of stocks	Percent of total number	Number of stocks	Percent of total number
Number of trusts.....	27		38		43		44		47		47	
10.....	2	0.8	2	0.8	2	0.8	2	0.8	2	0.7	2	0.7
20.....	4	1.5	4	1.5	4	1.5	4	1.6	4	1.4	5	1.8
30.....	7	2.7	7	2.7	7	2.7	7	2.7	7	2.4	8	2.9
40.....	10	3.8	10	3.8	11	4.2	10	3.9	10	3.4	12	4.3
50.....	13	4.9	14	5.4	15	5.8	14	5.4	15	5.2	17	6.1
60.....	17	6.4	20	7.7	19	7.3	20	7.8	21	7.2	24	8.6
70.....	23	8.7	28	10.7	27	10.4	27	10.5	29	10.0	34	12.2
80.....	34	12.9	41	15.7	40	15.4	36	14.0	43	14.8	51	18.3
90.....	63	23.9	70	26.8	72	27.8	67	26.1	77	26.6	78	28.1
100.....	264	100.0	261	100.0	259	100.0	257	100.0	290	100.0	278	100.0

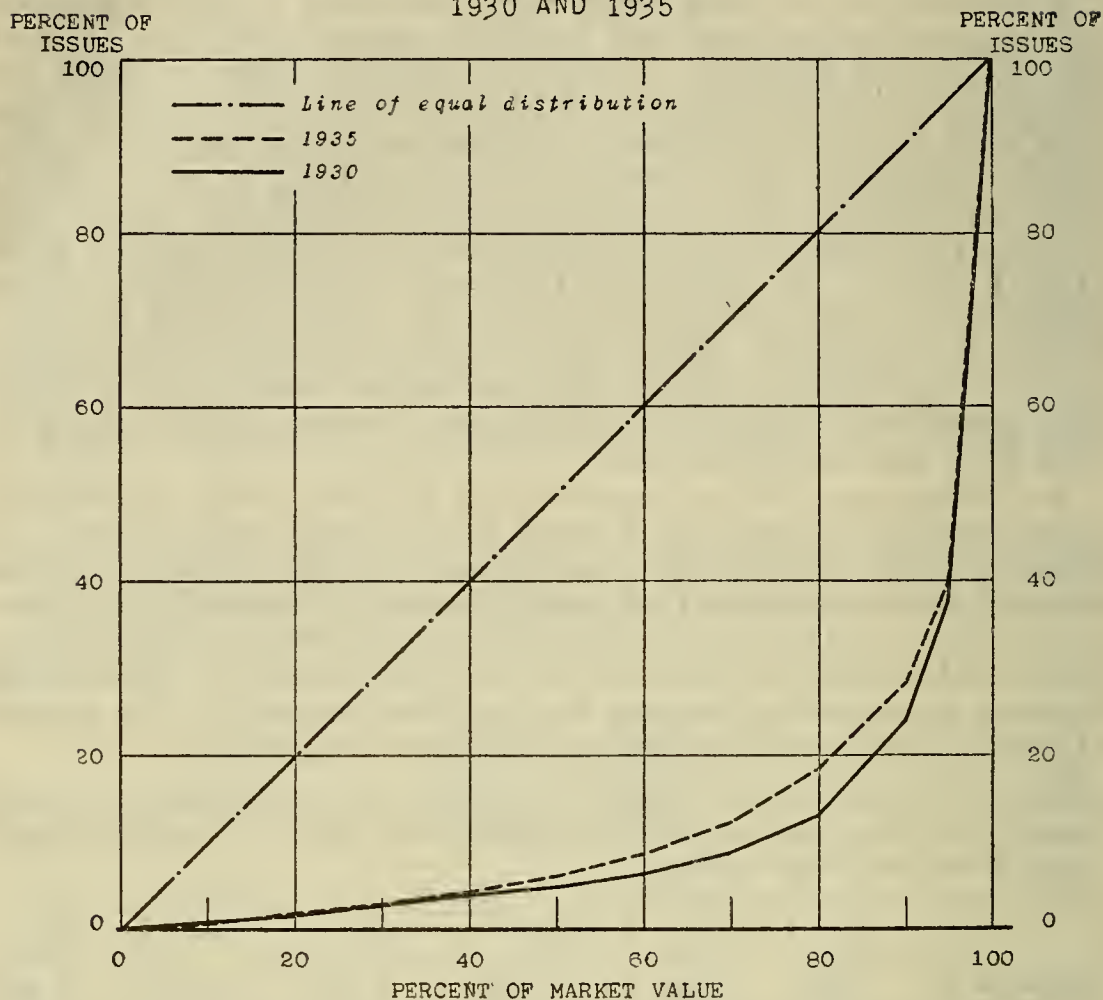
^a Excluding the North American Bond Trust; one trust is included up to 1932, but was in liquidation in the later years. The number of stocks given is the smallest number required to make up the specified percentages of total market value.

^b The years 1927-29 were omitted because of the small number of trusts at those year ends.

²⁷ The increase in 1934 and 1935 is due largely to the two nontypical trusts, Collateral Equities Trust Shares and Trusteed Industry Shares.

CHART O-II

CONCENTRATION IN INDIVIDUAL ISSUES OF THE
MARKET VALUE OF THE COMBINED PORTFOLIO OF A GROUP
OF LARGE FIXED AND SEMI-FIXED INVESTMENT TRUSTS
1930 AND 1935



b. The 50 Stocks Held by the Largest Number of Fixed Trusts

A list of the 50 stocks held by the largest number of the fixed trusts over the period 1930-1935 is given in Table O-9,²⁸ which may be compared with the similar table for the management investment companies proper, exclusive of the companies in the Atlas and Equity groups.²⁹ There are 37 stocks common to both lists. The stock of the Chrysler Corporation does not appear in the list of the 50 stocks most commonly held by the fixed trusts, and the stock of General Motors Corporation is very low in rank for the fixed trusts.³⁰

²⁸ The stocks which were held by the largest number of trusts are designated as the most "popular" stocks. The number of trusts holding each stock at each year-end was related to the total number of trusts included for that year-end, and the resulting annual percentages were averaged for the period 1930-1935. The 50 stocks in the table are those which showed the highest average percentages so derived.

²⁹ Report of Investment Trusts and Investment Companies, Pt. Two, Ch. VIII, Table 176 at 575 (House Doc. No. 70, 76th Cong.).

³⁰ Only 3 fixed and semifixed trusts held Chrysler Corporation stock. A larger number held General Motors stock, but the appearance of this stock in the list of the 50 most popular was influenced by the fact that a number of trusts received some shares in 1935 as a special dividend distributed by E. I. du Pont de Nemours & Co.

International Nickel of Canada and Kennecott Copper, the leading mining stocks, and two merchandising stocks, Montgomery Ward and J. C. Penney, were in the list of the most popular stocks for the management investment companies proper, but do not appear in the list for the fixed trusts. Some of the stocks most commonly held by the fixed trusts but which were not among the 50 stocks most commonly held by the management companies, are the common stocks of National Biscuit, American Tobacco, Eastman Kodak, Otis Elevator, Allied Chemical and Dye, Procter and Gamble, and Standard Oil of Indiana.

TABLE O-9.—*The 50 stocks held by the largest number of fixed and semifixed investment trusts,^a 1930-35*

Stock	1930-35		Ranking by percent of trusts holding stock ^b						Ranking by market value, 1935
	Average percent of trusts holding stock ^c	Ranking by average percent of trusts holding stock	1930	1931	1932	1933	1934	1935	
Standard Oil (New Jersey).....	79.2	1	1	1	1	1	1	1	7
American Telephone and Telegraph.....	74.6	2	2	2	2	2	3	3	2
E. I. du Pont de Nemours.....	72.1	3	5	3	3	3	2	2	1
National Biscuit.....	70.5	4	6	5	4	4	5	5	20
General Electric.....	70.3	5	12	6	5	5	4	4	6
Union Pacific.....	67.5	6	9	10	7	6	6	6	8
Consolidated Gas of New York.....	66.8	7	10	9	6	7	7	7	17
United States Steel.....	62.4	8	3	4	8	14	14	17	24
Pennsylvania Railroad.....	62.1	9	7	8	10	13	12	13	26
American Tobacco B.....	59.7	10	16	12	9	8	10	8	9
American Can.....	58.6	11	19	14	11	9	9	10	5
Eastman Kodak.....	58.0	12	14	17	12	11	9	11	3
International Harvester.....	56.9	13	15	16	16	12	13	14	13
North American.....	55.3	14	20	13	14	16	15	15	15
Standard Oil of California.....	54.8	15	8	20	18	21	19	20	39
Union Carbide and Carbon.....	54.7	16	26	18	15	10	11	9	4
Atchison, Topeka & Santa Fe.....	54.4	17	13	11	13	19	20	21	21
New York Central.....	53.8	18	4	7	23	24	25	26	41
United Gas Improvement.....	52.6	19	24	21	17	15	16	16	22
Otis Elevator.....	50.8	20	18	19	22	20	22	22	25
F. W. Woolworth.....	50.6	21	22	23	19	17	17	18	10
Borden.....	50.4	22	27	22	20	18	18	19	28
Westinghouse Electric & Manufacturing.....	48.5	23	11	15	25	26	27	28	11
Pacific Gas & Electric.....	47.5	24	23	24	21	22	21	23	19
Columbia Gas & Electric.....	43.2	25	35	26	24	23	23	25	33
Allied Chemical & Dye.....	39.9	26	28	27	27	27	26	27	14
Procter & Gamble.....	39.3	27	44	28	26	25	24	24	23
Texas Corporation.....	37.4	28	25	30	28	28	28	29	51
Standard Oil of Indiana.....	36.0	29	21	29	29	30	31	30	49
Southern Pacific.....	33.6	30	17	25	32	35	35	37	87
General Motors.....	30.9	31	52	35	35	31	30	12	12
American Radiator & Standard Sanitary.....	30.4	32	34	31	31	33	33	34	32
Public Service of New Jersey.....	28.7	33	43	34	30	29	29	31	29
American Smelting & Refining.....	25.5	34	42	32	33	34	34	33	30

^a For the number of trusts included at each year-end, see Table O-8.

^b When more than one stock was held by the same number of trusts, they were ranked on the basis of market value.

^c Unweighted average of the annual percentages.

TABLE O-9.—*The 50 stocks held by the largest number of fixed and semifixed investment trusts, 1930-35—Continued*

Stock	1930-35		Ranking by percent of trusts holding stock						Ranking by market value, 1935
	Average percent of trusts holding stock	Ranking by average percent of trusts holding stock	1930	1931	1932	1933	1934	1935	
Corn Products Refining.....	25.3	35	62	39	34	32	32	32	31
Socony-Vacuum Oil.....	25.0	36	29	36	37	39	39	40	84
American Power and Light.....	23.4	37	37	33	36	42	41	41	85
Electric Bond and Share.....	21.5	38	30	37	43	43	51	51	98
Sears Roebuck.....	21.4	39	54	38	39	37	37	35	16
General Foods.....	20.2	40	65	47	40	36	36	36	36
Liggett & Myers B.....	19.4	41	49	49	41	38	38	39	79
American Gas and Electric.....	19.1	42	40	43	42	41	44	44	89
Ingersoll-Rand.....	18.9	43	36	41	45	46	42	43	34
Western Union Telegraph.....	18.5	44	31	40	46	54	59	48	68
Southern California Edison.....	17.9	45	39	45	44	48	46	45	77
Bankers Trust.....	16.9	46	47	50	51	40	43	47	47
Chase National Bank.....	16.9	47	45	51	52	44	45	49	71
R. J. Reynolds Tobacco B.....	15.4	48	116	46	47	45	40	42	18
Louisville & Nashville.....	15.0	49	32	42	53	67	69	70	90
National City Bank.....	14.9	50	48	56	57	49	50	54	48
Total market value as percent of market value of all stocks.....			80.9	82.2	81.9	84.4	80.0	75.6	

Standard Oil Company (New Jersey) was first in popularity among the large fixed trusts throughout the period. American Telephone and Telegraph Company stock was second until 1934, when it was equaled by the stock of E. I. du Pont de Nemours. National Biscuit, General Electric, and Union Pacific stocks averaged next in popularity over the period. The stock of Consolidated Gas Co. of N. Y. was the utility stock averaging highest in popularity throughout the period.

The changes in the relative popularity of the different stocks during the period are indicated in Table O-9. Such changes up to 1931 were, of course, due to the formation of new trusts, and subsequently were the result mainly of the elimination of certain stocks from some of the portfolios.³¹ Every railroad stock, with the exception of Union Pacific, ranked appreciably lower at the end of 1935 than at the end of 1930. United States Steel Corporation declined from its position as the third most popular stock at the end of 1930 to seventeenth at the end of 1935. The food, tobacco, and chemical stocks generally showed an increasing popularity over the period, the stock of E. I. du Pont de Nemours going from fifth to second place, Union Carbide and Carbon from twenty-sixth to ninth, American Tobacco from sixteenth to eighth and Borden's from twenty-seventh to nineteenth.

³¹ The changes observable can be directly ascribed to the general trusts as a whole in the group of trusts studied, since there were only 2 specialized trusts organized after 1930 (excluding one trust restricted to investments in bonds).

The 50 stocks listed in Table O-9 accounted for about 80% of the total market value of all stocks in the portfolios of all large fixed trusts, general and specialized. The percentage declined to about 76% at the end of 1935 because of the growth of trusts specializing in bank and insurance stocks. In the combined portfolio of the general trusts these 50 stocks made up over 90% of the total value at every year-end.

Of the 50 companies whose stocks appear in the list, half had total assets of more than \$500,000,000 each, while only three companies had assets of less than \$100,000,000.³² The average age of these companies (from date of incorporation to the end of 1935) was 39 years, and almost all at the end of 1935 had been in existence for over 20 years.

c. Uniformity of Individual Fixed Trusts With Respect to Individual Issues in the Portfolios

The large fixed trusts were much more uniform in their investments than were the management investment companies proper. This greater uniformity is indicated by the series of figures given below, showing the number of times the average stock issue was duplicated in these fixed trust portfolios, expressed as a percentage of the total number of trusts, for each year-end from 1930 to 1935.³³

	1930	1931	1932	1933	1934	1935
All fixed trusts.....	14.1	14.0	13.7	13.4	11.7	12.1
General fixed trusts.....	27.3	25.0	24.1	23.9	19.4	19.9

These figures may be compared with those for the management investment companies proper as shown in the Report on Investment Trusts and Investment Companies, Part Two, Chapter VIII, Tables 181 and 183. At the end of 1935, the average number of "proper" companies which held the same common stock issue was only 3.1% of the total number of companies, while the figure for the general diversified companies alone ranged from 8% of the total number of companies for the closed-end leverage companies to 12% for the closed-end nonleverage companies and the open-end companies.

Only one stock was held at any year-end by over 80% of all the large fixed trusts—the stock of the Standard Oil Company (New Jersey) which was held by over four-fifths of all trusts at the end of 1931, 1932, and 1933. There were 15 stocks held by more than half the trusts at the end of 1930 and 20 by more than half the trusts at the end of 1935. There were 40 stocks held by more than one-fifth of all trusts at the end of 1930, but only 38 at the end of 1935.³⁴ Table O-16 also gives the proportion of the total value of all investments accounted for by these stocks at each year end. The 15 stocks held by

³² At the end of 1935, the average total assets of each of these companies amounted to \$744,000,000, and to \$680,000,000 for the 47 companies excluding the 3 banks.

³³ The decline after 1933 in these figures was the result of the inclusion of Collateral Equities Trust Shares and Trusteed Industry Shares in the combined portfolio.

³⁴ See Table O-16, p. 418, *infra*.

more than half the trusts at the end of 1930 accounted for over 47% of the value of all investments, while the 20 stocks held by more than this same percentage of trusts at the end of 1935 accounted for 52% of the total portfolio value. The value of the stocks held by more than one-tenth of all trusts, however, declined from 81% of the value of all investments at the end of 1930 to 70% at the end of 1935.³⁵

³⁵ Four stocks were held by all large general trusts at the end of 1930—American Telephone and Telegraph, New York Central, Standard Oil (New Jersey), and United States Steel. The greater uniformity of these general trusts is also evident from the fact that at the end of 1935, 10 stocks appeared in the portfolios of more than four-fifths of all the trusts and accounted for over 43% of the value of all investments.

TABLE O-10.—*Security investments at year-ends of large fixed and semifixed investment trusts,^a classified by industry, 1927-35*

	Market value in thousands of dollars								Percent of total market value									
	1927	1928	1929	1930	1931	1932	1933	1934	1935	1927	1928	1929	1930	1931	1932	1933	1934	1935
Number of trusts.....	4	6	14	27	38	44	45	48	48	4	6	14	27	38	44	45	48	48
Industry																		
Metal mining.....	151	471	1,066	758	1,129	1,017	2,018	1,338	1,936	0.8	0.7	0.9	0.3	0.6	0.6	1.3	1.1	1.2
Oil.....	718	2,110	6,475	13,920	10,295	9,446	11,096	7,987	8,322	4.0	3.4	5.4	5.6	5.2	5.9	7.1	6.4	5.3
Steel.....	409	1,167	3,374	10,702	4,814	2,720	3,090	1,940	2,052	2.3	1.9	2.8	4.3	2.4	1.7	2.0	1.6	1.3
Machinery.....	515	2,010	9,211	25,427	12,223	8,269	9,504	7,858	12,378	2.9	3.2	7.7	10.2	6.2	5.1	6.1	6.4	7.9
Automobiles.....	71	232	241	379	1,332	1,215	2,905	2,170	3,399	.4	.4	.2	.2	.7	.8	1.9	1.8	2.2
Foods and tobacco.....	1,414	2,655	7,182	17,350	21,623	20,367	19,412	14,968	14,462	7.9	4.1	6.0	7.0	10.9	12.6	12.4	12.1	9.2
Chemicals.....	862	2,611	4,756	11,391	17,528	17,901	23,529	18,853	22,357	4.8	4.2	4.0	4.6	8.9	11.1	15.1	15.3	14.2
Building supplies.....	168	1,187	5,166	6,236	3,630	2,411	3,140	2,390	3,381	.9	1.9	4.3	2.5	1.8	1.5	2.0	1.9	2.2
Miscellaneous industrials.....	732	1,596	4,676	15,499	13,742	9,682	11,814	11,674	12,466	4.1	2.5	3.9	6.2	7.0	6.0	7.6	9.4	7.9
Merchandising.....	98	522	1,795	4,175	5,826	6,133	7,096	6,161	6,353	.5	.8	1.5	1.7	3.0	3.8	4.5	5.0	4.1
Total industrials and miscellaneous.....	5,138	14,561	43,942	105,837	92,142	79,161	93,604	75,339	87,106	28.6	23.1	36.7	42.6	46.7	49.1	60.0	61.0	55.5
Banks and insurance.....			1,848	4,726	5,164	7,400	8,055	11,646	21,735			1.6	1.9	2.6	4.6	5.2	9.4	13.9
Railroads and other transportation.....	2,706	6,595	21,470	60,071	29,514	15,176	17,729	12,332	13,033	15.1	10.5	18.0	24.1	14.9	9.4	11.3	10.0	8.3
Communication.....	740	2,236	7,713	23,859	18,086	12,682	10,065	6,876	8,831	4.1	3.6	6.4	9.6	9.2	7.9	6.4	5.6	5.6
Total transportation and communication.....	3,446	8,831	29,183	83,930	47,600	27,858	27,794	19,208	21,864	19.2	14.1	24.4	33.7	24.1	17.3	17.7	15.6	13.9
Electric and gas utilities.....	9,378	39,461	44,121	52,584	52,233	46,609	26,486	17,038	25,956	52.2	62.8	36.9	21.2	26.4	28.9	16.9	13.8	16.5
Foreign b.....			454	1,393	460	216	331	219	288			.4	.6	.2	.1	.2	.2	.2
Grand total.....	17,962	62,853	119,548	248,470	197,599	161,244	156,270	123,450	156,949	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a Includes North American Bond Trust, and the 2 Modified Series of Corporate Trust Shares are counted as separate trusts. Each of these trusts had assets of \$500,000 or more at some time during the period 1927-35.

^b Excluding Canadian corporate issues, which are classified with domestic issues in this table.

TABLE O-11.—Shares of common stocks in the portfolios of a group of large fixed and semifixed investment trusts,^a classified by industry, 1927-35

	Number of shares								Percent of total shares									
	1927	1928	1929	1930	1931	1932	1933	1934	1935	1927	1928	1929	1930	1931	1932	1933	1934	1935
Number of trusts.....	4	6	14	27	38	43	44	47	47	4	6	14	27	38	43	44	47	47
Industry																		
Metal mining.....	2,400	4,780	9,100	17,130	64,325	79,439	50,219	39,952	34,130	1.5	1.1	0.9	0.5	1.1	1.4	1.2	1.2	1.1
Oil.....	11,898	32,997	101,527	362,030	509,937	423,429	311,702	249,599	210,573	7.4	7.6	10.3	11.3	9.0	7.7	7.4	7.6	7.1
Steel.....	2,811	7,350	18,448	76,997	116,608	96,959	61,591	46,153	40,227	1.7	1.7	1.9	2.4	2.0	1.8	1.5	1.4	1.4
Machinery.....	5,298	16,467	54,935	277,726	450,947	420,981	314,899	246,875	211,979	3.3	3.8	5.6	8.7	7.9	7.6	7.5	7.5	7.1
Automobiles.....	450	1,545	3,030	10,022	62,049	92,218	78,711	63,736	58,963	.8	.3	.4	.3	1.1	1.7	1.9	1.9	2.0
Foods and tobacco.....	19,974	28,120	52,069	207,251	468,632	583,222	452,701	362,280	306,119	12.4	6.5	5.3	6.5	8.3	10.6	10.8	11.0	10.3
Chemicals.....	3,450	6,527	32,419	124,772	360,076	477,407	341,688	271,462	230,258	2.1	1.5	3.3	3.9	6.4	8.7	8.1	8.3	7.8
Building supplies.....	1,200	5,444	34,828	164,121	259,767	253,418	197,592	158,822	136,024	.7	1.3	3.5	5.1	4.6	4.6	4.7	4.9	4.6
Miscellaneous industrials.....	6,720	14,633	37,591	156,207	234,798	198,758	146,953	117,703	100,870	4.2	3.4	3.8	4.9	4.2	3.5	3.5	3.6	3.4
Merchandising.....	648	2,702	21,955	74,751	147,205	208,999	158,930	125,865	106,543	.4	.6	2.2	2.3	2.6	3.8	3.8	3.8	3.6
Total industrials and miscellaneous.....	54,849	120,565	365,902	1,471,007	2,674,344	2,834,830	2,114,986	1,682,447	1,435,686	34.0	27.8	37.2	45.9	47.2	51.4	50.4	51.2	48.4
Banks and insurance.....	-----	-----	18,614	48,942	99,585	170,577	219,051	271,167	371,036	-----	-----	1.9	1.5	1.8	3.1	5.2	8.3	12.5
Railroads and other transportation.....	18,561	45,094	141,411	579,898	734,399	466,426	322,902	252,876	218,031	11.5	10.4	14.4	18.1	12.9	8.5	7.7	7.7	7.3
Communication.....	4,320	12,373	35,267	150,784	195,244	138,894	94,598	71,626	64,146	2.7	2.8	3.6	4.7	3.4	2.5	2.3	2.2	2.2
Total transportation and communication.....	22,881	57,467	176,678	730,682	929,643	605,320	417,500	324,502	282,177	14.2	13.2	18.0	22.8	16.3	11.0	10.0	9.9	9.5
Electric and gas utilities.....	83,634	256,396	411,986	919,087	1,938,415	1,890,051	1,434,500	996,670	871,878	51.8	59.0	42.0	28.7	34.2	34.3	34.2	30.4	29.4
Foreign ^a	-----	-----	9,199	35,210	30,082	10,848	9,159	7,423	6,103	-----	-----	.9	1.1	.5	.2	.2	.2	.2
Total.....	161,364	434,428	982,379	3,204,928	5,672,069	5,511,626	4,195,196	3,282,209	2,966,880	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a The 2 Modified Series of Corporate Trust Shares are counted as separate trusts. Each of these trusts had assets of \$500,000 or more at some time during the period 1927-35.

^b Excluding Canadian corporate issues, which are classified with domestic issues.

TABLE O-12.—49 fixed and semifixed investment trusts, classified by type of trust, 1927-35

Type of trust	Number of trusts ^a										Market value of investments in thousands of dollars									
	1927	1928	1929	1930	1931	1932	1933	1934	1935	1927	1928	1929	1930	1931	1932	1933	1934	1935		
General trusts.....	3	5	9	18	29	34	34	36	36	10,586	27,754	80,626	204,616	162,302	131,484	132,615	98,783	116,378		
Specified trusts:																				
Bank stocks.....			2	4	4	4	5	6	6			1,848	3,947	2,673	3,814	3,894	5,742	10,813		
Insurance stocks.....				1	1	1	1	1	1				61	401	1,423	2,307	5,146	9,990		
Oil stocks.....			2	2	2	2	2	2	2			1,603	968	762	752	1,292	1,111	1,080		
Utility stocks.....	1	1	1	2	2	2	2	2	2	7,376	35,099	35,471	38,878	31,461	22,831	13,091	8,184	12,272		
Bonds ^b						1	1	1	1						940	3,071	4,484	6,416		
Total, specialized trusts.....	1	1	5	9	9	10	11	12	12	7,376	35,099	38,922	43,854	35,297	29,760	23,655	24,667	40,571		
Total, all trusts.....	4	6	14	27	38	44	45	48	48	17,962	62,853	119,548	248,470	197,599	161,244	156,270	123,450	156,949		
	Percent of total number of trusts										Percent of total market value of investments									
General trusts.....	75.0	83.3	64.3	66.7	76.3	77.3	75.6	75.0	75.0	58.9	44.2	67.4	82.4	82.1	81.5	84.9	80.0	74.2		
Specialized trusts:																				
Bank stocks.....			14.3	14.8	10.5	9.1	11.2	12.4	12.4			1.5	1.6	1.4	2.4	2.5	4.7	6.9		
Insurance stocks.....				3.7	2.6	2.3	2.2	2.1	2.1				(^c)	.2	.9	1.5	4.2	6.3		
Oil stocks.....			14.3	7.4	5.3	4.5	4.4	4.2	4.2			1.3	.4	.4	.5	.8	.9	.7		
Utility stocks.....	25.0	16.7	7.1	7.4	5.3	4.5	4.4	4.2	4.2	41.1	55.8	29.8	15.6	15.9	14.1	8.4	6.6	7.8		
Bonds ^b						2.3	2.2	2.1	2.1						.6	1.9	3.6	4.1		
Total, specialized trusts.....	25.0	16.7	35.7	33.3	23.7	22.7	24.4	25.0	25.0	41.1	55.8	32.6	17.6	17.9	18.5	15.1	20.0	25.8		
Total, all trusts.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0		

^a One trust, included from 1927 to 1932, was liquidated after that date and is therefore not included in the later years.

^b The funds of this trust, North American Bond Trust, were largely invested in bonds of utility companies, with most of the remaining funds in railroad bonds.

^c Less than 0.05 percent.

TABLE O-13.—*Security investments at year-ends of a group of large general fixed and semifixed investment trusts,^a classified by industry, 1927-35*

[Percent of market value]

	1927	1928	1929	1930	1931	1932	1933	1934	1935
Number of trusts.....	3	5	9	18	29	34	34	36	36
<i>Industry group</i>									
Metal mining and allied.....	1.4	1.7	1.3	0.4	0.7	0.8	1.5	1.3	1.7
Oil.....	6.8	7.6	6.8	6.4	6.0	6.6	7.5	7.0	6.2
Iron and steel.....	3.9	4.2	4.2	5.2	3.0	2.1	2.2	1.8	1.7
Machinery.....	4.9	7.2	11.4	12.5	7.5	6.3	7.2	7.9	10.6
Automobiles and accessories.....	.7	.8	.3	.2	.8	.9	2.2	2.1	2.9
Food and tobacco.....	13.3	9.6	8.9	8.5	13.3	15.5	14.6	14.9	12.2
Chemical.....	8.1	9.4	5.9	5.6	10.8	13.6	17.8	19.1	19.2
Building supplies.....	1.6	4.3	6.4	3.1	2.2	1.8	2.4	2.4	2.9
Miscellaneous industrial.....	6.9	5.7	5.8	7.6	8.5	7.3	8.8	11.5	10.3
Merchandising.....	.9	1.9	2.3	2.0	3.6	4.7	5.3	6.2	5.5
Total industrials.....	48.5	52.4	53.3	51.5	56.4	59.6	69.5	74.2	73.2
Banks and insurance.....				.4	1.3	1.6	.9	.8	.8
Railroads.....	25.6	23.8	25.8	29.0	18.1	11.3	12.6	11.2	9.3
Communication.....	7.0	8.1	9.6	11.1	9.9	8.3	6.6	6.1	6.7
Total railroads and communication.....	32.6	31.9	35.4	40.1	28.0	19.6	19.2	17.3	16.0
Electric and gas utilities.....	18.9	15.7	10.7	7.3	14.0	19.0	10.1	7.5	9.7
Foreign ^b.....			.6	.7	.3	.2	.3	.2	.3
Grand total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

^a See Table O-15 for the total market value of the investments of these trusts.^b Excluding Canadian corporate issues, which are included with domestic issues in this table.

TABLE O-14.—*Stock issues in the combined portfolio of 48 large fixed and semifixed investment trusts at year-ends,^a classified by the aggregate market value of each issue, 1927-35*

[Market value in thousands of dollars]

	1927		1928		1929		1930		1931		1932		1933		1934		1935	
	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value	Num- ber of issues	Market value
Market value of issues in thousands of dollars																		
Number of trusts ^a	4		6		14		27		38		43		44		47		47	
Greater than 20,000.....																		
Greater than 15,000.....									1	15,403								
Greater than 10,000.....							6	73,201	1	15,403	1	11,981						
Greater than 5,000.....			1	9,642	1	9,210	17	151,640	10	82,400	8	53,615	6	43,934	4	24,660	5	34,302
Greater than 2,500.....			2	12,254	13	51,514	25	182,127	23	128,506	21	101,755	21	96,061	11	52,501	16	73,485
Greater than 1,000.....			14	27,843	33	84,831	44	212,128	43	160,931	36	124,831	38	124,731	33	88,114	37	109,052
Greater than 500.....	1	2,186	41	45,631	56	100,366	65	225,018	60	173,618	51	136,432	44	129,180	47	97,529	70	132,015
Greater than 250.....	7	6,263	72	56,090	85	110,493	94	234,294	89	183,867	80	146,609	72	139,379	71	105,676	87	138,538
Greater than 100.....	17	9,482	110	62,355	123	116,748	146	243,523	147	193,394	132	155,078	127	147,803	120	113,762	125	144,773
Greater than 50.....	53	14,965	115	62,813	148	118,696	184	246,573	189	196,305	182	158,546	176	151,443	160	116,649	169	148,073
Greater than 10.....	85	17,093	118	62,853	194	119,548	264	248,470	261	197,599	259	160,304	257	153,199	290	118,967	278	150,533
0 and greater.....	114	17,962																

^a These trusts are those which had maximum total assets of \$500,000 or more at some time in the period 1927-35. North American Bond Trust is excluded, and one trust included from 1927 to 1932 is not included in later years since it was then in liquidation.

TABLE O-15.—Security investments aggregating \$500,000 or more at some year-end during the period 1927-35 of a group of large fixed and semifixed investment trusts,^a 1927-30, year ends

[Market value in thousands of dollars]

Security (common stock unless otherwise indicated)	1927			1928			1929			1930		
	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value
Number of trusts.....	4			6			14			27		
Aetna Insurance.....										1	40	2
Air Reduction.....							1	995	124	3	4,304	398
Allied Chemical & Dye.....							1	995	264	9	10,148	1,904
American Can.....	1	750	56	2	2,575	284	4	3,765	459	13	13,775	1,526
American Gas and Electric.....	1	1,225	149	2	6,099	1,155	2	11,615	1,760	6	12,720	1,280
American Light & Traction.....	1	735	129	1	2,865	645	1	3,030	670	2	14,280	611
American Power & Light.....	1	1,715	111	1	12,415	1,029	1	15,150	1,227	7	30,029	1,557
American Radiator & Standard Sanitary.....	1	750	102	2	2,575	482	6	20,019	632	8	72,320	1,163
American Smelting & Refining.....							1	995	75	5	5,604	234
American Telephone & Telegraph.....	3	3,135	543	5	8,039	1,507	9	19,102	4,448	19	82,436	14,886
American Tobacco, B.....	1	450	79	2	1,545	275	5	10,782	2,205	13	69,062	7,367
Atchison, Topeka & Santa Fe Ry.....	1	87	17	2	1,411	275	5	13,195	3,127	14	70,444	12,750
Bank of New York & Trust.....							1	18	12	3	322	178
Bankers Trust.....							1	96	13	5	2,087	224
Borden.....				1	1,324	219	2	7,055	615	10	14,590	1,015
Central Pacific Ry.....	1	609	127	1	609	145	3	8,697	1,658	4	50,948	1,956
Central Hanover Bank & Trust.....							1	42	13	4	1,085	244
Chemical Bank & Trust.....							1	150	11	3	2,919	132
Columbia Gas & Electric.....	1	490	45	1	1,910	261	2	6,045	424	8	19,054	692
Commonwealth Edison.....	1	980	168	2	5,144	1,092	3	8,065	2,307	5	11,500	2,710
Commonwealth Power.....	1	1,715	114	1	8,595	857						
Commonwealth & Southern.....							1	87,870	1,186	3	163,765	1,396
Consolidated Gas of N. Y.....	2	2,780	303	3	18,610	2,062	6	34,385	3,818	16	94,051	8,111

^a Includes North American Bond Trust; the 2 Modified Series of Corporate Trust Shares are counted as separate trusts. Each of these trusts had assets of \$500,000 or more at some time during the period 1927-35.

Consolidated Gas, Electric Light & Power of Baltimore.	1	735	51	1	2,865	272	2	4,025	371	4	8,050	692
Continental Insurance.										1	48	2
Corn Exchange Bank & Trust.							1	84	15	3	1,424	169
Corn Products Refining.										4	599	47
Delaware, Lackawanna & Western R. R.	1	174	24	2	2,160	287	3	5,640	890	3	6,527	558
Detroit Edison.	2	2,535	337	2	5,457	1,140	3	5,555	1,209	5	8,986	1,596
Drug Incorporated (see also Sterling Products).										2	194	12
E. I. du Pont de Nemours.	2	3,450	862	4	6,527	2,611	8	28,439	4,232	17	82,652	7,416
Eastman Kodak.	2	1,587	233	2	2,247	394	5	11,440	2,030	14	68,524	10,287
Edison Electric Illuminating of Boston.	1	245	61	1	955	262	1	1,010	268	3	2,230	533
Electric Bond & Share.	1	87	10	1	87	10	2	10,150	789	9	23,317	1,007
Electric Power & Light, \$7 preferred.	1	1,715	187	1	8,595	922	1	9,090	936	1	7,695	791
First National Bank of New York.							1	6	32	3	89	334
Franklin Fire Insurance.										1	60	1
General Electric.	2	948	129	4	3,732	754	7	14,566	3,655	16	92,530	4,309
General Foods.							1	995	238	3	16,634	731
General Motors.										4	7,253	257
Great American Insurance.										1	80	2
Great Western Sugar.	1	14,616	548	1	14,616	548	1	8,400	249	1	2,688	20
Guaranty Trust.										4	721	322
Hanover Fire Insurance.										1	60	2
Hartford Electric Light.	1	245	94	1	3,820	516	1	4,040	505	2	4,425	333
Home Insurance.										2	95	3
Illinois Central R. R.	2	2,100	274	3	4,220	592	7	13,606	1,773	8	63,962	3,782
Illinois Power and Light, \$6 preferred.				1	6,685	655	1	7,070	636	1	5,985	543
Ingersoll-Rand.	1	750	69	3	4,561	467	7	17,430	2,873	7	65,824	11,856
Insurance Co. of North America.										3	1,555	77
International Harvester.	1	300	73	2	1,030	100	5	6,607	534	14	45,925	2,398
Irving Trust.							1	240	13	3	4,455	151
Liggett & Myers Tobacco, B.										4	6,331	549
Louisville & Nashville R. R.	3	2,337	339	4	4,822	706	8	14,210	1,893	8	64,235	5,696
Middle West Utilities.							1	9,090	236	2	38,850	687
National Biscuit.							8	15,007	2,765	17	86,179	6,679
National City Bank.	2	798	136	4	3,217	588	1	48	10	5	1,547	142
National Fire Insurance.										1	40	2
National Lead.										1	1,590	211
National Power & Light, 7-percent preferred.	1	1,225	134	1	4,775	518	1	3,030	582	1	1,590	211
New York Central R. R.	3	2,235	354	5	5,547	1,004	9	16,631	3,081	18	71,996	8,522

TABLE O-15.—Security investments aggregating \$500,000 or more at some year end during the period 1927-35 of a group of large fixed and semifixed investment trusts, 1927-30, year ends—Continued

Security (common stock unless otherwise indicated)	1927			1928			1929			1930		
	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value
Number of trusts.....	4			6			14			27		
New York Trust.....							1	48	13	4	929	138
Niagara Hudson Power.....										2	65,690	608
North American.....	3	36,120	2,186		3	102,000	4	101,220	9,210	12	105,880	7,421
North River Insurance.....										1	48	2
Northern States Power, 7-percent preferred.....	1	1,715	189		1	6,685	1	7,070	756	1	5,985	628
Otis Elevator.....	1	450	66		3	2,869	7	14,807	4,534	13	91,431	5,054
Pacific Gas & Electric.....	3	18,172	764		3	36,068	4	31,135	1,720	11	44,443	2,181
Penn Ohio Edison, 7-percent preferred.....	1	1,715	185		1	6,685	1	7,070	742			
Pennsylvania Railroad.....	2	2,592	168		4	6,836	8	18,377	1,463	17	84,565	4,889
Phoenix Fire Insurance.....										1	32	2
Procter & Gamble.....							1	995	57	5	9,657	619
Public National Bank & Trust.....							1	72	9	2	942	45
Public Service of Colorado, 6-percent preferred.....	1	1,960	195		1	7,640	1	8,080	751	1	6,840	616
Public Service of New Jersey.....										5	9,379	670
R. J. Reynolds Tobacco, B.....										2	930	38
Royal Dutch, N. Y. Shares.....							2	8,347	440	2	35,210	1,350
Sears, Roebuck.....							1	995	103	4	5,414	254
Socony-Vacuum (see also Standard Oil N. Y. & Vacuum Oil).....												
Southern California Edison.....	1	4,900	200		2	20,424	2	23,230	1,385	6	27,399	1,289
Southern Pacific.....	3	2,187	257		4	4,307	8	13,656	1,703	13	70,946	6,710
Standard Brands.....												
Standard Gas & Electric.....	1	3,360	205		1	4,838	1	2,856	306	3	7,512	523
Standard Gas & Electric, \$7 preferred.....	1	1,225	135		1	4,775	1	5,050	530	1	4,275	462
Standard Oil of California.....	2	2,100	114		3	4,220	9	14,800	922	17	73,366	3,369

Standard Oil of Indiana.....	2	2, 100	147	3	4, 220	351	7	6, 623	380	12	34, 401	1, 267
Standard Oil (New Jersey)	3	3, 048	116	5	8, 614	431	11	21, 931	1, 512	20	88, 244	4, 393
Standard Oil of N. Y. (see also Socony-Vacuum Oil)	2	2, 700	83	3	6, 280	259	9	17, 356	588	9	69, 076	1, 548
Sterling Products (see also Drug Inc.)												
Texas Corporation.....				1	1, 986	143	4	14, 660	889	10	71, 413	2, 348
Union Carbide and Carbon Corporation.....							1	995	79	10	17, 817	1, 042
Union Pacific R. R.....	3	3, 840	709	4	5, 960	1, 247	8	14, 606	3, 166	16	70, 450	12, 776
United Corporation.....										2	29, 090	487
United Fruit.....										3	60, 994	3, 175
United Gas Improvement.....	1	1, 470	163	2	7, 054	1, 166	3	10, 115	1, 049	11	75, 868	2, 179
United States Fire Insurance.....								41, 395	2, 027	1	40	2
United States Steel.....	3	2, 811	409	5	7, 350	1, 167	9	18, 448	3, 374	18	75, 887	10, 646
United States Trust.....							1	6	20	3	89	255
Utilities Power and Light, 7-percent preferred.....	1	1, 715	169	1	6, 685	662	1	7, 070	665	1	5, 985	563
Vacuum Oil (see also Socony-Vacuum Oil)	2	1, 950	258	4	7, 677	655	7	12, 965	1, 537	7	8, 329	588
West Penn Electric, 7-percent preferred.....	1	1, 470	163	1	5, 730	633	1	6, 060	624	1	5, 130	533
Western Massachusetts.....	1	2, 450	148	1	9, 500	688	1	10, 100	657	2	10, 560	563
Western Union Telegraph.....	1	750	132	3	3, 899	663	7	15, 915	3, 230	8	65, 589	8, 779
Westinghouse Electric & Manufacturing.....	2	2, 550	196	3	4, 569	495	7	13, 562	1, 983	16	70, 773	6, 685
F. W. Woolworth.....	2	648	98	4	2, 702	522	8	20, 960	1, 691	11	68, 967	3, 860
Worcester Electric Light.....	1	980	208	1	3, 820	764						

TABLE O-15.—Security investments aggregating \$500,000 or more at some year end during the period 1927-35 of a group of large fixed and semifixed investment trusts, 1927-30, year ends—Continued

Security (common stock unless otherwise indicated)	1931			1932			1933			1934			1935		
	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value
Number of trusts.....	38			44			45			48			48		
Aetna Insurance.....	1	480	13	1	1,850	56	1	2,850	90	1	5,290	258	1	10,500	633
Air Reduction.....	5	11,822	594	6	14,011	818	6	12,027	1,193	7	10,805	1,195	6	9,144	1,605
Allied Chemical & Dye.....	15	39,864	2,974	17	49,253	4,039	17	28,710	4,221	19	21,001	2,857	19	17,909	2,811
American Can.....	23	60,437	3,934	25	84,719	4,654	26	60,526	5,965	27	46,938	5,315	27	39,741	5,276
American Gas and Electric.....	7	22,038	882	8	21,851	650	8	19,401	416	8	14,363	286	8	13,847	510
American Light and Traction.....	2	18,300	400	2	17,560	277	2	14,368	160	2	9,728	101	2	8,816	143
American Power and Light.....	11	62,827	930	11	61,917	428	8	47,795	335	9	36,623	127	9	33,620	282
American Radiator & Standard Sanitary.....	14	119,175	800	13	121,840	867	12	92,915	1,324	13	74,519	1,153	12	64,131	1,375
American Smelting & Refining.....	12	38,507	689	12	54,818	710	11	35,540	1,584	12	27,554	1,011	12	24,046	1,500
American Telephone & Telegraph.....	29	128,569	15,403	32	115,370	11,981	32	83,209	9,370	33	61,520	6,462	33	52,155	8,141
American Tobacco, B.....	23	105,083	7,688	26	91,282	5,162	27	65,364	4,561	27	49,423	4,101	28	41,741	4,176
Atchison, Topeka & Santa Fe Ry.....	24	103,961	9,163	25	84,865	3,460	22	53,560	3,081	22	41,263	2,146	22	35,112	2,126
Bank of New York & Trust.....	3	516	161	3	729	259	5	1,225	363	5	1,565	514	4	1,982	1,061
Bankers Trust.....	6	5,090	341	6	6,841	487	8	8,741	479	8	9,558	518	7	11,025	748
Borden.....	20	73,659	2,967	22	110,709	2,651	23	84,958	1,766	24	67,776	1,598	23	57,184	1,522
Canadian Pacific Ry.....	4	54,946	667	4	34,465	473	3	21,624	280	4	16,736	194	3	14,340	157
Central Hanover Bank & Trust.....	4	2,068	284	4	2,498	371	6	3,477	395	6	3,714	394	5	4,323	529
Chemical Bank and Trust.....	3	5,205	152	3	7,458	296	5	12,355	404	4	13,409	538	5	20,542	1,162
Columbia Gas & Electric.....	17	110,194	1,556	19	188,550	2,864	20	147,129	1,891	21	115,083	892	20	95,055	1,374
Commonwealth Edison.....	5	15,665	2,011	6	14,419	1,075	6	11,349	416	6	8,423	391	6	7,569	724
Commonwealth Power.....															
Commonwealth & Southern.....	4	292,594	1,143	4	283,738	688	3	214,446	375	3	129,159	155	3	115,676	323
Consolidated Gas of N. Y.....	26	151,990	9,509	29	152,743	8,794	29	117,644	4,569	30	90,162	1,870	30	77,204	2,459

Consolidated Gas, Electric Light & Power of Baltimore.....	4	11,066	690	5	10,507	657	5	8,349	416	5	6,478	356	5	5,928	509
Continental Insurance.....	1	576	12	1	2,256	34	1	3,420	81	2	6,448	215	2	12,700	546
Corn Exchange Bank & Trust.....	3	2,145	133	3	2,999	218	5	5,878	257	5	7,514	334	4	8,418	554
Corn Product Refining.....	9	17,608	765	11	39,692	2,102	12	31,832	2,362	13	24,908	1,639	13	20,870	1,458
Delaware Lackawanna & Western R. R.....	2	7,586	182	2	6,292	166	2	4,913	132	2	4,339	77	2	3,787	60
Detroit Edison.....	5	11,876	1,385	6	11,171	796	5	8,283	499	6	6,410	452	5	5,707	689
Drug Incorporated (see also Ster- ling Products).....	6	16,974	889	9	43,924	1,562	---	---	---	---	---	---	---	---	---
E. I. du Pont de Nemours.....	28	133,238	7,582	31	139,106	5,289	31	100,329	9,525	33	79,634	7,556	33	64,741	9,433
Eastman Kodak.....	22	97,149	8,385	25	82,600	4,521	25	58,068	4,696	27	44,869	4,997	26	37,557	5,848
Edison Electric Illuminating of Boston.....	3	4,206	823	3	4,128	717	3	3,111	390	3	1,804	192	3	1,610	256
Electric Bond and Share.....	10	55,979	669	8	26,453	455	8	22,348	292	7	14,048	102	7	12,554	192
Electric Power and Light, \$7 pre- ferred.....	1	6,210	379	1	5,814	113	1	5,364	56	1	4,149	34	1	3,816	86
First National Bank of New York.....	3	99	176	3	127	195	5	247	305	5	304	461	5	399	851
Franklin Fire Insurance.....	1	720	9	1	2,820	38	1	4,275	75	1	7,935	202	1	15,750	547
General Electric.....	27	193,018	5,005	30	234,122	3,534	31	175,887	3,511	32	139,227	3,078	33	118,894	4,874
General Foods.....	6	37,180	1,065	9	54,148	1,202	10	43,091	1,210	11	36,664	1,041	11	30,975	1,072
General Motors.....	10	56,764	1,246	11	88,459	1,149	12	76,603	2,770	14	59,400	1,948	26	52,644	3,001
Great American Insurance.....	1	960	13	1	3,760	52	1	5,700	90	1	10,580	235	1	21,000	662
Great Western Sugar.....	1	2,016	13	1	1,848	13	1	1,680	51	1	1,344	38	1	1,176	37
Guaranty Trust.....	5	1,793	471	5	2,110	719	7	2,345	615	7	2,201	661	7	2,804	890
Hanover Fire Insurance.....	1	720	13	1	2,820	68	1	4,275	106	1	7,935	298	1	15,780	638
Hartford Electric Light.....	2	5,265	256	2	5,036	259	2	4,188	190	2	2,893	143	2	2,628	176
Home Insurance.....	2	1,595	38	2	4,252	66	2	5,302	97	2	8,764	251	2	16,469	668
Illinois Central R. R.....	7	52,805	559	5	6,983	92	4	5,062	161	4	4,386	73	4	3,812	73
Illinois Power and Light, \$6 pre- ferred.....	1	4,830	314	1	4,522	159	1	4,172	43	1	3,227	41	1	2,968	104
Ingersoll-Rand.....	7	54,665	1,744	7	17,514	490	7	14,129	863	8	12,116	802	8	10,288	1,177
Insurance Co. of North America.....	3	5,399	192	3	7,432	258	3	6,721	268	3	7,295	389	3	12,255	927
International Harvester.....	23	96,641	2,481	24	92,001	1,972	25	68,530	2,755	25	53,729	2,190	25	45,998	2,850
Irving Trust.....	3	7,615	139	3	10,885	261	5	19,012	288	5	24,913	367	4	29,193	543
Liggett & Myers Tobacco, B.....	6	16,796	897	9	14,850	778	9	7,354	579	10	4,349	452	9	3,347	375
Louisville & Nashville R. R.....	7	53,234	1,208	6	11,000	243	4	5,349	266	4	4,610	212	4	4,008	242
Middle West Utilities.....	2	83,865	526	---	---	---	---	---	---	---	---	---	---	---	---
National Biscuit.....	27	143,003	5,903	30	134,906	5,168	31	103,168	4,740	32	81,424	2,271	32	68,878	2,264

TABLE O-15.—Security investments aggregating \$500,000 or more at some year end during the period 1927-35 of a group of large fixed and semifixed investment trusts, 1927-30, year ends—Continued

Security (common stock unless otherwise indicated)	1931			1932			1933			1934			1935		
	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value	Number of trusts holding issue	Number of shares	Market value
Number of trusts.....	38			44			45			48			48		
National City Bank.....	5	6,485	302	5	9,224	410	7	13,184	317	7	15,369	346	6	18,538	738
National Fire Insurance.....	1	480	15	1	1,880	74	1	2,850	119	1	5,290	303	1	10,500	830
National Lead.....	1	1,404	135	1	846	70	1	666	81	2	766	113	2	706	132
National Power & Light, 7 percent preferred.....															
New York Central R. R.	27	103,540	3,385	20	69,136	1,274	20	48,300	1,645	20	38,204	771	20	32,429	926
New York Trust.....	4	2,398	229	4	3,609	354	6	4,917	412	6	5,622	545	6	7,288	899
Niagara Hudson Power.....	3	170,394	1,108	3	53,780	814	3	42,422	228	2	23,793	77	2	21,096	192
North American.....	23	169,910	5,946	24	199,041	5,476	24	164,220	2,541	25	123,082	1,644	25	107,800	2,811
North River Insurance.....	1	576	10	1	3,572	42	1	5,415	87	1	10,051	241	1	19,950	574
Northern States Power, 7 percent preferred.....															
Otis Elevator.....	1	4,830	435	1	4,522	317	1	4,172	204	1	3,227	142	1	2,968	248
Pacific Gas & Electric.....	21	136,761	2,759	21	127,380	1,456	22	101,116	1,590	22	81,505	1,095	22	69,507	1,748
Penn Ohio Edison, 7 percent preferred.....	18	106,198	3,667	21	133,932	3,989	21	107,498	1,788	22	83,545	1,225	21	73,198	2,294
Pennsylvania Railroad.....	27	141,238	2,920	26	110,087	1,626	25	80,296	2,491	26	61,320	1,434	26	53,538	1,710
Phoenix Fire Insurance.....	1	334	17	1	1,504	73	1	2,280	116	1	4,232	305	1	8,400	861
Procter & Gamble.....	15	54,853	2,253	18	80,814	2,322	19	59,113	2,280	20	46,565	2,052	20	39,373	1,893
Public National Bank & Trust.....	2	1,695	37	2	2,955	85	2	5,415	115	2	7,890	252	3	14,648	683
Public Service of Colorado, 6 percent preferred.....	1	5,520	403	1	5,168	289	1	4,768	229	1	3,688	240	1	3,392	334
Public Service of New Jersey.....	10	43,834	2,384	13	67,110	3,392	14	53,371	1,951	15	39,606	1,073	13	33,040	1,506
R. J. Reynolds Tobacco, B.....	6	33,050	1,174	6	62,767	1,768	7	58,818	2,553	9	50,175	2,473	8	43,419	2,421
Royal Dutch, N. Y. Shares.....	2	30,082	426	2	10,848	216	2	9,159	331	2	7,423	219	2	6,103	288

Sears, Roebuck.....	9	37, 432	1, 223	9	65, 098	1, 238	9	58, 120	2, 514	10	47, 467	1, 840	11	41, 178	2, 680
Socony-Vacuum (see also Standard Oil N. Y. and Vacuum Oil).....	10	81, 783	813	11	42, 636	336	9	28, 831	453	10	24, 711	356	9	20, 775	283
Southern California Edison.....	6	38, 391	1, 253	7	37, 151	932	7	29, 629	477	8	20, 005	238	8	18, 331	458
Southern Pacific.....	17	76, 080	2, 337	13	23, 389	388	11	14, 504	317	12	11, 423	197	11	11, 204	252
Standard Brands.....	3	24, 927	333	5	59, 896	901	6	46, 640	1, 014	7	37, 531	690	7	31, 449	487
Standard Gas & Electric.....	3	16, 059	497	3	15, 619	205	2	10, 442	74	2	5, 853	28	2	5, 168	32
Standard Gas & Electric, \$7 preferred.....	1	3, 450	242	1	3, 230	129	1	2, 980	73	1	2, 305	43	1	2, 120	39
Standard Oil of California.....	21	85, 379	2, 224	23	48, 878	1, 195	22	35, 207	1, 438	23	28, 234	904	23	24, 459	978
Standard Oil of Indiana.....	15	56, 922	842	15	52, 025	1, 128	14	34, 678	1, 121	14	25, 749	657	14	22, 413	734
Standard Oil (New Jersey).....	31	167, 385	4, 853	34	180, 805	5, 420	34	139, 216	6, 353	35	109, 257	4, 652	35	92, 537	4, 842
Standard Oil of New York (see also Socony-Vacuum Oil).....															
Sterling Products (see also Drug, Inc.).....															
Texas Corporation.....	14	90, 283	1, 170	16	62, 643	900	6	14, 160	721	6	11, 292	670	6	9, 253	604
Union Carbide & Carbon Corporation.....															
Union Carbide & Carbon Corporation.....	21	99, 662	3, 206	24	147, 977	3, 845	25	113, 671	5, 349	26	90, 384	4, 231	27	77, 409	5, 603
Union Pacific R. R.....	26	102, 146	7, 818	29	89, 722	6, 324	29	64, 744	7, 373	31	50, 353	5, 328	31	42, 854	4, 668
United Corporation.....	3	75, 660	653	3	73, 540	653	3	53, 000	252	2	29, 626	85	2	26, 264	184
United Fruit.....	3	50, 414	1, 120	3	14, 520	345	3	11, 695	702	4	9, 619	718	3	7, 919	525
United Gas Improvement.....	20	180, 246	3, 576	23	222, 802	4, 383	24	171, 126	2, 604	25	128, 547	1, 626	24	111, 196	1, 959
United States Fire Insurance.....	1	480	11	1	1, 880	35	1	2, 850	89	1	5, 290	249	1	10, 500	593
United States Steel.....	28	112, 761	4, 742	28	93, 353	2, 646	24	59, 458	2, 890	25	45, 199	1, 714	24	38, 165	1, 882
United States Trust.....	3	99	151	3	127	204	3	156	237	3	196	319	3	295	654
Utilities Power & Light, 7 percent preferred.....															
Vacuum Oil (see also Socony-Vacuum Oil).....	1	4, 830	250	1	4, 322	127	1	4, 172	29	1	3, 227	15	1	2, 968	45
West Penn Electric, 7 percent preferred.....															
West Penn Electric, 7 percent preferred.....	1	4, 140	311	1	3, 876	194	1	3, 576	179	1	2, 766	166	1	2, 544	237
Western Massachusetts.....	2	11, 910	413	2	11, 364	365	2	9, 568	213	2	6, 708	140	2	6, 104	222
Western Union Telegraph.....	8	56, 223	2, 340	7	13, 602	393	6	8, 162	458	6	7, 710	257	7	7, 307	519
Westinghouse Electric & Manufacturing.....															
Westinghouse Electric & Manufacturing.....	23	101, 795	2, 709	19	72, 150	2, 008	19	52, 452	2, 021	18	37, 060	1, 376	18	31, 548	3, 067
F. W. Woolworth.....	19	107, 134	4, 414	22	123, 389	4, 161	23	93, 896	4, 121	24	73, 287	3, 924	23	61, 424	3, 405
Worcester Electric Light.....															

TABLE O-16.—*Stock issues in the combined portfolio of 48 large fixed and semifixed investment trusts, classified by the percent of number of trusts holding each stock at each year-end, 1930-35^a*

Percent of number of trusts holding each stock.	1930			1931			1932			1933			1934			1935		
	Num-ber of issues	Percent of total issues	Percent of market value	Num-ber of issues	Percent of total issues	Percent of market value	Num-ber of issues	Percent of total issues	Percent of market value	Num-ber of issues	Percent of total issues	Percent of market value	Num-ber of issues	Percent of total issues	Percent of market value	Num-ber of issues	Percent of total issues	Percent of market value
Greater than 80-----	-----	-----	-----	1	0.4	2.5	1	0.4	3.4	1	0.4	4.2	5	1.7	20.2	5	1.8	19.6
Greater than 70-----	2	0.8	7.8	8	3.1	25.2	7	2.7	29.0	5	2.0	21.9	7	2.4	26.2	8	2.9	27.1
Greater than 60-----	8	3.0	24.5	16	6.1	50.1	13	5.0	42.8	9	3.5	36.5	19	6.6	54.6	20	7.2	51.7
Greater than 50-----	15	5.7	47.5	22	8.4	61.9	22	8.5	61.0	21	8.2	59.6	26	9.0	63.8	27	9.7	60.4
Greater than 40-----	24	9.1	62.7	26	10.0	67.9	27	10.4	68.8	27	10.5	68.6	31	10.7	68.5	30	10.8	63.3
Greater than 30-----	30	11.4	66.2	32	12.3	72.3	32	12.4	72.9	30	11.7	71.3	39	13.5	75.0	38	13.7	69.9
Greater than 20-----	40	15.2	81.0	40	15.3	77.6	41	15.9	78.9	39	15.2	79.8	66	22.8	86.1	65	23.4	81.9
Greater than 10-----	89	33.7	90.1	68	26.1	87.1	58	22.4	85.8	66	25.7	89.1	290	100.0	100.0	278	100.0	100.0
Greater than 0-----	264	100.0	100.0	261	100.0	100.0	259	100.0	100.0	257	100.0	100.0	290	100.0	100.0	278	100.0	100.0

^a The years 1927-29 are omitted here because of the small number of trusts included at those year-ends.
See note to Table O-14, supra.

APPENDIX P

Expenses of Depositors of Fixed Investment Trusts

This appendix contains a break-down of expenses for certain depositors of fixed trusts, who were also principal distributors. The material set forth herein was taken from the replies to the Commission's questionnaires for the trusts named.

Expenses of Transcontinent Shares Corporation, from date of organization to Dec. 31, 1935

	1929	1930	1931	1932	1933	1934	1935	Total
<i>Selling, general and administrative expenses</i>								
Salaries.....	\$60,800.32	\$42,501.98	\$48,470.00	\$55,737.17	\$51,484.00			\$258,993.47
Traveling, entertainment, advertising, and circularization.....	15,213.79	23,149.30	29,183.00	11,989.78	17,766.63	\$13,601.69	\$16,450.38	127,354.57
Auditing and legal fees.....	4,011.72	3,538.13	1,740.00	325.00	1,579.95	5,499.71	25,448.88	42,143.39
New York office expense.....		14,338.72	27,048.73	25,636.30	31,149.91			98,173.66
Salesmen's expense.....		14,493.65	23,471.01	19,273.08	33,372.05			90,609.79
Commissions to wholesale representatives, and salesmen, and advertising allowances to dealers.....								
Salaries and additional compensation, officers, office, and sales.....						76,191.20	161,906.20	238,097.40
Postage, engraving certificates, stationery supplies, and printing.....						75,324.75	168,631.99	243,956.74
Taxes and license fees.....	3,282.30	5,750.30	7,525.22	7,306.78	6,656.08	7,054.78	15,060.34	53,216.30
Telephone and telegraph.....	1,225.39	1,794.21	4,589.25	3,912.73	9,341.53	7,376.88	9,303.04	37,543.03
Rent.....	1,090.96	2,387.63	3,718.33	4,939.29	5,434.82	7,160.18	10,460.33	35,191.54
Depreciation on furniture and fixtures, insurance subscriptions and dues, and miscellaneous office expenses.....	2,600.00	2,958.34	4,250.04	4,250.04	4,230.04	5,473.06	5,985.43	29,746.95
Federal Trade registration expense and organization expense.....	754.78	1,556.22	2,734.34	2,463.83	2,668.89	4,924.82	7,786.45	22,889.33
						3,114.64	4,674.57	7,789.21
Total selling, general, and administrative expense.....	88,979.76	112,468.48	152,729.92	135,834.00	163,663.90	206,321.71	425,707.61	1,285,705.38

Expenses of Fundamental Group Corporation, from date of organization to Dec. 31, 1935, excluding 6 months from Dec. 31, 1930, to June 30, 1931

	3 months ended Dec. 31, 1930	6 months missing	6 months ended Dec. 31, 1931	Dec. 31, 1932	Dec. 31, 1933	Dec. 31, 1934	Dec. 31, 1935
Amortization of organization expenses and trust indenture			\$6,672	\$1,405	\$1,405	\$1,405	\$1,405
Advertising	\$28,314		8,491	7,140	6,772	6,207	5,392
Salaries	1,800		6,290	8,201	14,490	13,180	10,859
Trustee's fees and expenses	1,579		3,025	1,099	374	1,220	1,900
Legal and auditing expenses	3,032		6,439	1,649	14,261	10,983	5,424
Investment counsel						3,419	6,966
Salesmen's commission and traveling expense	2,198			166	4,552	2,255	282
Directors' fees					810	1,420	720
Blue Sky Law fees	4,108		2,024	1,062	6,283	3,772	1,772
Rent, supplies, and miscellaneous expenses	11,098		3,588	5,323	11,777	4,684	4,057
Guarantee on Prettyman and McFarlane contract				9,369			
Total	52,129		36,529	35,414	60,724	48,545	38,777

Expenses of Distributors Group, Inc., from date of organization to Dec. 31, 1935, excluding Jan. 1, 1929, to May 31, 1930

	Dec. 24, 1928, to Jan. 31, 1929 ^a	7 months ended Dec. 31, 1930	Dec. 31, 1931 ^b	Dec. 31, 1932 ^b	Dec. 31, 1933	Dec. 31, 1934	Dec. 31, 1935
Salaries and commissions to employees		\$137,604.86			\$390,600.74	\$308,596.24	\$316,198.31
Directors' fees		1,380.00				3,979.12	3,083.89
Trustees' fees	\$28,494.74	196,341.47	\$255,506.63	\$131,021.01	39,216.75	5,488.83	
Advertising, traveling, publicity, entertainment		414,832.20	437,483.18	151,653.60	58,982.30	62,878.30	48,805.23
Legal and auditing expense	7,550.00	52,683.35			38,298.36	25,490.48	21,697.42
Taxes, other than federal income tax	293.70	362.22			11,364.05	1,542.82	2,222.48
Rent, light, telephone and miscellaneous expense	1,533.94	170,964.93			224,930.91	151,339.30	108,395.21
Draft collection charges						4,805.35	20,171.14
Office depreciation and repairs		1,579.99				3,462.27	2,380.33
Insurance		5,924.74				6,809.97	10,236.94
Statistical and quotation service		1,106.12				3,510.91	5,928.59
Development expenses of new trusts					49,941.19		
All other expenses			964,378.44	756,290.60			
Total	37,872.38	982,779.88	1,657,368.25	1,038,965.21	813,334.30	577,903.59	539,119.54

^a From Dec. 24, 1928, to May 31, 1930, sponsorship of the trusts was in Lee, Stewart & Co., Inc.

^b Breakdown of general selling and administrative expenses not furnished for 1931 and 1932.

^c Includes directors' fees.

*Expenses of American Depositor Corporation from date of organization to
Dec. 31, 1935*

	June 6, 1929, to Dec. 31, 1929	Dec. 31, 1930	Dec. 31, 1931	Dec. 31, 1932	Dec. 31, 1933	Dec. 31, 1934	Dec. 31, 1935
Salaries.....	\$13, 575. 66	\$120, 636. 87	\$123, 616. 53	\$103, 163. 86	\$74, 273. 46	\$35, 528. 33	\$2, 027. 00
Advertising and printing.....	27, 479. 84	166, 075. 82	167, 739. 61	42, 074. 51	3, 253. 35	188. 54	-----
Traveling and other selling expenses.....	14, 425. 38	5, 171. 18	20, 791. 60	8, 017. 97	1, 256. 79	-----	-----
Trustees' fees and expenses....	2, 208. 60	48, 274. 22	44, 934. 19	21, 897. 90	9, 705. 62	9, 198. 72	7, 318. 60
Taxes, other than Federal in- come taxes.....	-----	513. 68	50, 548. 63	489. 91	809. 28	956. 63	330. 00
Draft collection charges.....	-----	43, 251. 56	32, 124. 59	7, 971. 21	231. 13	-----	-----
Rent, legal, auditing, and miscellaneous.....	17, 818. 82	60, 780. 25	153, 505. 62	55, 696. 44	55, 816. 66	16, 362. 08	15, 067. 60
Modification expense.....	-----	-----	-----	72, 511. 56	-----	-----	-----
Total.....	75, 508. 30	444, 703. 58	593, 260. 77	311, 823. 36	145, 351. 29	62, 234. 30	24, 743. 20

APPENDIX Q

Exchange Offers to Holders of Fixed Trust Shares

The following table contains data relating to exchange offers made to the holders of certificates for shares of the fixed trusts for which replies to the Commission's questionnaire were filed.

The material set forth herein was taken from the replies to the Commission's questionnaires for the trusts named.

Reported Exchange Offers to Holders of Fixed Trust Shares, 1927-35

[Trusts with distributions of \$500,000 or over]

Name of trust	Number of shares exchanged	Approximate dollar value of shares exchanged	Original date of offer	Date of expiration of offer	Security offered in exchange	Premium allowed on shares submitted for exchange	Load on shares offered in exchange
Diversified Trustee Shares, Original Series.			Apr. 22, 1932	Apr. 1, 1933	Diversified Trustee Shares, Series D.	20 cents per share	8.46 percent of offering price.
Diversified Trustee Shares, Series B.			Apr. 18, 1932	June 15, 1932	do	do	Do.
Do.			June 15, 1932	Mar. 31, 1933	do	do	Do.
Do.			Mar. 31, 1933	Sept. 19, 1933	do	do	Do.
Do.			Sept. 19, 1933		Diversified Trustee Shares, Series D, or Supervised Shares, Inc.	do	Do.
Diversified Trustee Shares, Series C.	953, 105	\$4, 167, 463	May 1, 1931	June 17, 1931	Diversified Trustee Shares, Series D.	None	None.
Do.			June 17, 1931	Oct. 23, 1931	do	5 percent discount on new shares.	7½ percent of offering price
Do.			Oct. 23, 1931	Feb. 1, 1932	do	do	8.46 percent of offering price.
Do.			Feb. 1, 1932	June 30, 1933	do	3 percent discount on new shares.	Do.
United States Electric Light & Power Shares, Inc., Trust Certificates, Series B.	764, 000	1, 715, 000	June 18, 1934	Aug. 15, 1934	Nation-Wide Securities Co. (Md.).	3 percent of liquidating value.	9½ percent of liquidating value.
Nation-Wide Securities Co. Trust Certificates:							
Series A.	3, 980	30, 000	Jan. 18, 1934	do	do	do	Do.
Series B.	693, 000	2, 456, 500	do	do	do	do	Do.
United States Electric Light & Power Shares, Inc. Trust Certificates, Series A.	458, 000	580, 000	do	do	do	do	Do.
Fixed Trust Shares	44, 665	359, 000	Jan. 16, 1933	Feb. 28, 1935	Quarterly Income Shares, Inc.	Preferential-bid (amount not stated).	Do.
Fixed Trust Shares, Series B.	19, 155	124, 000	do	do	do	do	Do.
Basic Industry Shares	13, 400	399, 000	Jan. 14, 1933	do	do	do	Do.

Corporate Trust Shares, Original Series.	9,037,740	26,891,000	Nov. 19, 1931	June 15, 1932	Corporate Trust Shares, Accumulative Series or Series A A.	\$0.125 per share to Mar. 15, 1932. \$0.10 per share to June 15, 1932.	9½ percent of cost of property.
Do.	2,741,000	1,556,280	Sept. 29, 1932	Nov. 25, 1932	Corporate Trust Shares, Accumulative (Modified), or Series A A (Modified).	\$0.03 to \$0.10 per share	Do.
Do.	318,330	640,000	Jan. 23, 1933	Feb. 28, 1935	Quarterly Income Shares, Inc.	Preferential-bid (amount not stated).	Do.
Corporate Trust Shares: Series A A.	654,165	1,233,000	do	do	do	Preferential-bid (2 cents per share average).	Do.
Series A A (Modified)	2,782,000	5,981,000	do	do	do	do	Do.
Accumulative Series	673,595	1,274,000	do	do	do	do	Do.
Accumulative Series (Modified).	2,748,000	6,010,000	do	do	do	do	Do.
5-Year Fixed Trust Shares	63,800	206,000	do	do	do	Preferential-bid (5 cents per share average).	Do.
Deposited Bank Shares: Series N. Y.	104,000	290,000	Late in 1931	December 1935	Deposited Bank Shares N. Y., Series A.	Small variable premium	8 percent of offering price.
Series B-1.	33,000	101,000	December 1931	do	do	do	Do.
North American Trust Shares, 1953.	{ 16,000,000 to 18,000,000	{ 32,000,000 to 36,000,000	{ Nov. 5, 1931 Nov. 5, 1931	May 16, 1932	{ North American Trust Shares, 1955; North American Trust Shares, 1956. Group Securities, Inc.	\$0.125 per share to Dec. 31, 1931; \$0.10 per share to May 16, 1932.	{ 9½ percent of cost of property. 8¾ percent of asset value.
Cumulative Trust Shares	6,275	23,081	Apr. 14, 1934	Dec. 31, 1935	do	2¾ percent to 4¾ percent of asset value of Group Securities, Inc.	8¾ percent of asset value.
North American Trust Shares: 1955.	228,395	505,287	do	do	do	2¾ percent to 4¾ percent of asset value of Group Securities, Inc.	Do.
1956.	412,528	923,033	do	do	do	do	Do.
1958.	218,810	560,116	do	do	do	2¾ percent to 4¾ percent of asset value of Group Securities, Inc.	6¼ percent of asset value.

Reported Exchange Offers to Holders of Fixed Trust Shares, 1927-35--Continued

Name of trust	Number of shares exchanged	Approximate dollar value of shares exchanged	Original date of offer	Date of expiration of offer	Security offered in exchange	Premium allowed on shares submitted for exchange	Load on shares offered in exchange
Super-Corporations of America Trust Shares:							
Series A	31,620	120,524	Nov. 6, 1935	Nov. 14, 1935	American Business Shares	7 cents per share	9½ percent of net asset value.
			Nov. 23, 1935	Dec. 17, 1935	do	13 cents per share	Do.
Series B	17,025	68,429	Nov. 6, 1935	Nov. 14, 1935	American Business Shares	3 cents per share	Do.
			Nov. 23, 1935	Dec. 17, 1935	do	9 cents per share	Do.
Series C	4,375	31,798	Nov. 6, 1935	Nov. 14, 1935	American Business Shares	5 cents per share	Do.
			Nov. 23, 1935	Dec. 17, 1935	do	17 cents per share	Do.
Series D	7,865	57,378	Nov. 6, 1935	Nov. 14, 1935	do	7 cents per share	Do.
			Nov. 23, 1935	Dec. 17, 1935	do	19 cents per share	Do.
Series AA	80,956	238,659	Nov. 6, 1935	Nov. 14, 1935	American Business Shares	4 cents per share	Do.
			Nov. 23, 1935	Dec. 17, 1935	do	8 cents per share	Do.
Series BB	52,350	140,107	Nov. 6, 1935	Nov. 14, 1935	do	6 cents per share	Do.
			Nov. 23, 1935	Dec. 17, 1935	do	10 cents per share	Do.
Fundamental Trust Shares:							
Series A	75,620	374,775	Aug. 1, 1935	Nov. 30, 1935	Fundamental Investors, Inc.	5 percent over bid price	8½ percent of asset value.
Series B	37,710	179,580	do	do	do	do	Do.
Trust Shares of America	(a)	350,000	September 1933	January 1934	Dividend Shares, Inc.	None	About 8 percent of asset value.
Trusted New York Bank Shares.	(a)	(a)	Nov. 16, 1932	Dec. 31, 1932	Trusted New York City Bank Stocks.	do	Not known.
Investors Trustee Shares, Series A.	(a)	100,000	1931	1931	American Composite Trust Shares.	do	8 percent to 9 percent.
Selected Cumulative Shares	(a)	(a)	Unlimited offer.	Unlimited offer.	Selected American Shares, Inc.	do	9 percent.

• Not available.

APPENDIX R

British Investment Trusts

The fixed- or unit-type investment trust has grown steadily in Great Britain since 1931, and as a result of certain practices in connection with these trusts several investigations have been made of the industry, culminating in the investigation by the Board of Trade in 1936.¹

1. LEGAL POSITION OF FIXED TRUSTS IN GREAT BRITAIN

Apparently the structure of a fixed trust is such that these organizations are not deemed to come within the purview of the English Companies Act. This view may be traceable to the decision in the case of *Smith v. Anderson*,² decided in 1879. In that case, the shares in a number of submarine cable companies were purchased by subscription and vested in trustees, who thereupon issued certificates of participating interest. The trust did not register under the Companies Act of 1867, which was then in force.³ Upon an attempt to require the trust either to register or be dissolved, the Master of the Rolls held that the association should have registered under the provision⁴ embracing the associations of more than 20 persons formed for the purpose of carrying on a business having for its principal object the acquisition of gain. The Chancery Division of the High Court of Justice reversed the Master of Rolls and dismissed the action for dissolution, stating in part:

* * * It appears to me that it cannot in any practical sense of the word "business," in any sense in which any practical man of business would use the word, be said that the association was formed for the purpose of carrying on any business either by themselves or by any agent * * *.

In my opinion nothing that is to be done under this deed by the trustee comes within the ordinary meaning of the word "business," any more than what is done by trustees of a marriage settlement, who have large properties vested in them and who have very extensive powers of disposing of investments, changing the investments, and selling them and reinvesting in other investments according to their discretion and judgment with or without the consent of their cestui que trust. That is not a business * * *. I can see nothing like an attempt at evading the Act or at doing anything but making investments on a large scale so as to obtain the benefit of the doctrine of averages.

¹ Fixed Trusts, Report of the Departmental Committee Appointed by the Board of Trade, 1936 (London). For a report on British Investment trusts see report prepared for the Securities and Exchange Commission, Investment Trusts in Great Britain.

² Chancery Division, Law Reports, 247. This case has apparently never been overruled.

³ The Companies Act of 1929 was an amendment of this Act of 1867.

⁴ This provision is identical with the provision of the Act of 1929.

2. INVESTIGATION OF FIXED TRUSTS

Because of the inapplicability of the Companies Act, and the manner in which fixed trusts operated in practice, the London Stock Exchange in 1934 appointed a subcommittee of the Committee for General Purposes to inquire into the industry. The subcommittee met through 1935, and on December 12, 1935, published an interim report, the findings of which may be briefly indicated as follows:⁵

(a) The fixed trusts, because of their manner of operation, were not amenable to existing legislative safeguards to which other forms of investment were at that time subject. This finding refers to the fact that all corporations in all their phases are within the broad jurisdiction of the English Companies Act of 1929;

(b) The rapid expansion of the fixed trust industry might, through competitive methods which develop, entail considerable abuse;

(c) A demand existed for the machinery which fixed trusts appeared to supply;

(d) The public interest did not warrant suppression of fixed trusts;

(e) The London Stock Exchange was not equipped to regulate the industry; and,

(f) Therefore, the committee recommended legislation as the likely solution for the fixed-trust problem.

During the period of the Committee's investigations, inquiry was frequently made on the floor of the House of Commons with respect to the practices within the industry. The Committee's report was published on December 12, 1935, with its recommendations. Adverse comment respecting the Committee's report followed in the House of Commons. As a result, on March 9, 1936, Mr. Walter Runciman, at that time President of the Board of Trade, appointed a Departmental Committee to conduct an inquiry into the matter of fixed trusts. The Committee, composed of various experts, held 23 sessions, at 13 of which testimony was taken. Based on these sessions, a report was filed on July 29, 1936. The report recited the history of the movement, stated the general considerations, the criticisms and abuses, and made recommendations for their remedy.⁶

The abuses in the fixed-trust field were listed in the report under the following items:⁷

- (a) Propaganda and advertisement.
- (b) Dual role of management companies.
- (c) Methods of computing selling price (computation of loan).
- (d) Repurchase of shares (vagueness of conversion provisions).
- (e) Deducting service charges from capital.
- (f) Absence of responsibility of management companies to share holder and lack of control by share holder.
- (g) Excessive commissions to brokers on sale of shares.
- (h) Dangers to market from automatic buying and selling.

⁵ The Economist (London) March 7, 1936, Supplement, Fixed and Flexible Trusts, a survey, pp. 5 and 49.

⁶ Report of the Departmental Committee, op. cit., p. 5.

⁷ Id., at 16 et seq.

(i) Exercise of voting rights in underlying securities by managers resulting in divorce of control from beneficial ownership, and concentration of control in associations of managers.

(j) Escape of trusts from taxation due to structure.

The Committee made specific recommendations, in effect, as follows:⁸

- (a) Registration of all fixed trusts.
- (b) Filing of particulars with Registrar open to public inspection.
- (c) Management of trusts by English companies only.
- (d) Deposits with Paymaster General as security.
- (e) Certificate of Registrar as prerequisite to sale of shares.
- (f) Specified qualifications of trustee.
- (g) Filing of full trust and management company accounts.
- (h) Full disclosure of provisions for exculpation of trustee and limitation thereof.
- (i) Managers not to be freed from negligence, default, breach of duty, or trust.
- (j) Compulsory provisions in trust deed.
- (k) Power in court to wind up trust.
- (l) Relations between managers and trustee to be disclosed.
- (m) Offers for sale of shares to contain full particulars.
- (n) Advertisements accompanied by certain minimum particulars not to be considered offers of sale.
- (o) All sales to be accompanied by contract note and full information to purchaser.
- (p) Copy of all circulars, etc., to be filed with Registrar.
- (q) Settlement duty on initial settlement and all expansion.
- (r) Stamp duty on transfers and all transfers by written instrument.
- (s) Bearer certificates to be dutiable.
- (t) Contract notes to be liable for stamp duty.
- (u) Restrictions on designations of trusts.
- (v) Auditors to be unrelated to trust or its parties.
- (w) Auditor to be approved by trustee and removable by trustee and majority of share holders.
- (x) Meeting of share holders to elect auditors.
- (y) Income distribution warrants to show calculations of distributions.
- (z) Liability in damages for loss through misrepresentation of directors of management company and others sponsoring trust advertising.
- (aa) Power in trustee or prescribed percentage of share holders to call meeting.
- (bb) Meeting of share holders to have powers to remove or appoint trustees, managers, and auditors, to direct voting on underlying securities, and to initiate investigation into trust's conduct by Board of Trade.
- (cc) Voting rights of share holders arising out of trust property to be specified in summary of information and in trust deed.

⁸ Id., at 22 et seq.

- (dd) Procedure to be prescribed for investigation by inspectors of Board of Trade into affairs of trust.
- (ee) Judicial power to sanction modification of trusts.
- (ff) Hawking of shares to be prohibited.
- (gg) Copy of trust deed to be available at reasonable cost.
- (hh) Foreign trusts subject to the general regulations.
- (ii) Penalties to be prescribed.

One financial writer received the Committee's report rather unfavorably.⁹ However, the *London Times*, one of the leading newspapers of general circulation in London, in its edition of August 14, 1936, editorially commended the Committee on its report and, after reviewing its principal recommendations, concluded that "the reasonable character of the Committee's recommendations can hardly be questioned and there is every reason to believe that they will, in general, be as acceptable to the unit trusts as they will be to the general public."

3. FIXED TRUST LEGISLATION

In 1939 Parliament passed an act to regulate the business of dealing in securities called "Prevention of Fraud (Investments) Act, 1939." Some of the pertinent provisions relating to fixed investment trusts are as follows:¹⁰

16.—(1) The Board of Trade may by order declare to be an authorized unit trust scheme for the purposes of this Act any unit trust scheme in relation to which the Board are satisfied that the following conditions are fulfilled, that is to say—

- (a) that each of the persons who are respectively the manager and the trustee under the scheme is a corporation incorporated under the law of some part of the United Kingdom, and having a place of business in Great Britain at which notices and other documents are received on behalf of the corporation; and
- (b) that the scheme is such that the effective control over the affairs of the corporation which is the manager under the scheme is and will be exercised independently of the corporation which is the trustee under the scheme; and
- (c) that the scheme is such as to secure that any trust created in pursuance of the scheme is expressed in a deed providing, to the satisfaction of the Board, for the matters specified in the Schedule to this Act; and
- (d) as respects the corporation being the trustee, either—
 - (i) that the corporation has a capital (in stock or shares) for the time being issued of not less than five hundred thousand pounds, of which an amount of not less than two hundred and fifty thousand pounds has been paid up, and that the assets of the corporation are sufficient to meet

⁹ *Investors Chronicle* (London), August 15, 1936, in an article entitled "Control or Sanctification of Unit Trusts." The views are expressed that the report constitutes propaganda for the sponsors by giving the industry its blessing; that the Committee's recommendations, if enacted into legislation, would not seriously curb the abuses listed or abridge the freedom of movement of the trusts' operators; that the load should be eliminated and profits limited, since publicity on these items would be insufficient; and that some action should be taken (although the nature of the action is not disclosed) to limit trading in underlying shares by the managers.

¹⁰ Prevention of Fraud (Investments) Act, 1939, 2 & 3 Geo. 6, Ch. 16. (28th April, 1939.)

its liabilities (including liabilities in respect of the repayment of its capital) ; or

(ii) that more than four-fifths of the said capital of the corporation is held by another corporation being a corporation in relation to which the conditions as to capital and assets specified in sub-paragraph (i) of this paragraph are fulfilled :

Provided that, if with respect to any trust the Board of Trade are satisfied that, by reason of the special circumstances of the trust, the fulfilment in relation thereto of the condition specified in paragraph (c) of this subsection is impracticable, the Board may dispense with the fulfilment of that condition in relation to that trust so far as it appears to them that they can properly do so without prejudicing the interests of the beneficiaries.

(2) If, with respect to any authorized unit trust scheme, the Board of Trade consider that the order declaring the scheme to be an authorized unit trust scheme ought to be revoked on either of the following grounds, that is to say—

(a) that the conditions specified in paragraphs (a) to (d) of the preceding subsection are no longer fulfilled in the case of that scheme, or

(b) that the circumstances relevant to the making of an order have materially changed since the making thereof,

the Board may serve on the manager under the scheme and on the trustee under the scheme a written notice that they are considering the revocation of the order on that ground, specifying the respect in which the said conditions are no longer fulfilled or the said circumstances have changed, as the case may be, and inviting the manager and the trustee to make to the Board, within the period of one month from the date of the service of the notice, any representations which they desire to make with respect to the proposed revocation of the order ; and the Board may revoke the order after the expiration of the said period, but, before deciding whether or not to revoke the order, shall take into consideration any representations so made by the manager or trustee, and, if he so requests, afford him an opportunity of being heard by the Board within that period.

(3) The terms of any trust created before the commencement of this Act in pursuance of a unit trust scheme may, notwithstanding anything in any deed, be varied or supplemented by a deed made between the trustee and the manager under the scheme, and containing such provisions as may be certified by the Board of Trade to be necessary for the purpose of securing that the condition mentioned in paragraph (c) of subsection (1) of this section is fulfilled in relation to that scheme.

(4) The Board of Trade shall, not less often than once a year, cause particulars of every unit trust scheme which is for the time being an authorized unit trust scheme, to be published in such manner as they think proper.

* * * * *

26.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

authorized unit trust scheme means any unit trust scheme declared by an order of the Board of Trade for the time being in force to be an authorized unit trust scheme for the purposes of this Act ;

* * * * *

unit trust scheme means any arrangements made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever.

* * * * *

(2) Securities means—

(d) shares or debentures, or rights or interests (described whether as units or otherwise) in any shares or debentures, * * * and includes rights or interests (described whether as units or otherwise) which may be acquired under any unit trust scheme under which all property for the time being subject to any trust created in pursuance of the scheme consists of such securities as are mentioned in paragraph (a), paragraph (b), or paragraph (c) [as set forth].

(3) Any reference in this Act to a manager under a unit trust scheme or to a trustee under such a scheme shall be construed as a reference to the person in whom are vested the powers of management relating to property for the time being subject to any trust created in pursuance of the scheme or, as the case may be, to the person in whom such property is or may be vested in accordance with the terms of the trust.

* * * * *

SCHEDULE

Section 16.

MATTERS FOR WHICH TRUST DEEDS PURSUANT TO UNIT TRUST SCHEMES
MUST PROVIDE

1. For determining the manner in which the sale price of units and the yield therefrom are to be respectively calculated.

2. For regulating the mode of execution and the issue of unit certificates, and, in particular, for securing that no unit certificate shall be executed or issued in respect of rights or interests in any property until steps have been taken, to the satisfaction of the trustee, to secure that the property will be vested in him.

3. For securing that any advertisement, circular or other document containing any statement with respect to the sale price of units or the yield therefrom, or containing any invitation to buy units, shall not be issued by or on behalf of the manager until the trustee has had a reasonable opportunity of considering the terms of the document, and shall not be so issued if, within a reasonable time after the document first comes under his consideration, he notifies his disapproval of the terms thereof in writing to the manager.

4. For the establishment of a fund to be applied in defraying the expenses of the administration of the trust and for regulating the application of that fund.

5. For the audit, and the circulation to holders of units, of accounts relating to the trust (including accounts of the manager in relation to the trust and statements of his remuneration in connection therewith).

6. For requiring the manager (subject to any provisions as to appeal contained in the deed) to retire from the trust if the trustee certifies that it is in the interest of the beneficiaries under the trust that he should do so.

In this Schedule the expression "units" means securities (described whether as units or otherwise) which may be created in pursuance of the unit trust scheme, and the expression "unit certificates" means certificates of the acquisition of such securities.

